

*Kepler Road
Community Development District*

Organizational Meeting Agenda

December 11, 2023

AGENDA

Kepler Road
Community Development District
Organizational Meeting Agenda

Monday
December 11, 2023
2:00 PM

Gateway Center for the Arts
880 Highway 17
DeBary, FL 32713

I. Introduction

- A. Roll Call
- B. Public Comment Period
- C. Oath of Office

II. Organizational Matters

- A. Confirmation of Notice of Meeting
- B. Information on Community Development Districts and Public Official Responsibilities and Florida Statutes Chapter 190
- C. Election of Officers
 - 1. Consideration of Resolution 2024-01 Appointing Officers

III. Retention of District Staff

- A. Consideration of Agreement for District Management Services
 - 1. Consideration of Resolution 2024-02 Appointing District Manager, Financial Disclosure Coordinator, Assessment Consultant, and Designated Investment Representative
- B. Consideration of Agreement for District Counsel Services
 - 1. Consideration of Resolution 2024-03 Appointing District Counsel
- C. Consideration of Agreement for Interim District Engineer
 - 1. Consideration of Resolution 2024-04 Appointing Interim District Engineer
- D. Request Authorization to Issue RFQ for Engineering Services
- E. Consideration of Resolution 2024-05 Selection of Registered Agent and Office

IV. Designation of Meetings and Hearing Dates

- A. Consideration of Resolution 2024-06 Designation of Regular Monthly Meeting Date, Time and Location for Fiscal Year 2024
- B. Consideration of Resolution 2024-07 Designation of Landowner's Meeting Date, Time and Location

- C. Designation of Date of Public Hearing to Adopt Rules of Procedure in accordance with Section 120.54, Florida Statutes
 - 1. Consideration of Resolution 2024-08 Setting a Public Hearing to Consider the Proposed Rules of the District
- D. Designation of Date of Public Hearing on the Budget for Fiscal Year 2024
 - 1. Consideration of Resolution 2024-09 Setting the Public Hearing and Approving the Proposed Budget for Fiscal Year 2024
 - 2. Approval of the Fiscal Year 2024 Budget Funding Agreement
- E. Consideration of Resolution 2024-10 Setting Date of Public Hearing Expressing the District's Intent to Utilize the Uniform Method of Levying, Collecting and Enforcing Non Ad-Valorem Assessments in accordance with Section 197.3632, Florida Statutes

V. Other Organizational Matters

- A. Consideration of Resolution 2024-11 Designating a Qualified Public Depository
- B. Consideration of Resolution 2024-12 Authorization of Bank Account Signatories
- C. Consideration of Resolution 2024-13 Relating to Defense of Board Members
- D. Consideration of Resolution 2014-14 Approving an Interlocal Agreement between the CDD and City of Deland
- E. Consideration of Resolution 2024-15 Approving or Ratifying District Counsel's Actions in Recording in the Property Records of Volusia County, Florida the "Notice of Establishment" in accordance with Chapter 190.0485, Florida Statutes
 - 1. Notice of Establishment
- F. Consideration of Resolution 2024-16 Adopting Investment Guidelines
- G. Consideration of Resolution 2024-17 Authorizing Execution of Public Depositor Report
- H. Consideration of Resolution 2024-18 Designating a Policy for Public Comment
- I. Consideration of Resolution 2024-19 Adopting a Travel and Reimbursement Policy
- J. Consideration of Resolution 2024-20 Adopting Prompt Payment Policy
- K. Consideration of Resolution 2024-21 Adopting a Records Retention Policy
- L. Consideration of Compensation to Board Members

M. Consideration of Resolution 2024-22 Designating the Primary Administrative Office and Principal Headquarters of the District

N. Consideration of Resolution 2024-23 Selecting District Records Office within Volusia County

O. Consideration of Website Services Agreement

P. Consideration of Resolution 2024-24 Authorizing Chairperson or Vice-Chairperson to Execute Plats, Permits and Conveyances

Q. Consideration of Resolution 2024-25 Use of Electronic Signatures

VI. Capital Improvements

A. Appointment of Financing Team

1. Bond Counsel
2. Underwriter
3. Assessment Administrator
4. Trustee

B. Approval of Financing Team Funding Agreement

VII. Other Business

A. Staff Reports

- i. Attorney
- ii. Manager

B. Supervisor's Requests

C. Approval of Funding Request No. 1

VIII. Adjournment

SECTION II

SECTION A

**NOTICE OF ORGANIZATIONAL MEETING
KEPLER ROAD COMMUNITY DEVELOPMENT
DISTRICT**

The organizational meeting of the Board of Supervisors of the Kepler Road Community Development District will be held on December 11, 2023, at 2:00 PM at the Gateway Center for the Arts, 880 Hwy 17, DeBary, FL 32713. The purpose of the meeting is to elect certain District officers, consider the appointment of staff to include but not limited to manager, attorney, engineer and others as deemed appropriate by the Board of Supervisors; to consider the services to be provided by the District and the financing plan for same; to appoint a team for purposes of issuing special assessment bonds and consider the associated funding agreement; and to conduct other business that may come before the Board.

The meeting is open to the public and will be conducted in accordance with the provisions of Florida Law for Community Development Districts. A copy of the meeting agenda may be obtained from the District Manager at 219 E. Livingston Street, Orlando, FL 32801.

The meeting may be continued to a date, time, and place as evidenced by motion of the majority of Board Members participating. There may be occasions when one or more Supervisors will participate by telephone.

Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodation to participate in this meeting is asked to advise the District Office at (407) 841-5524 at least forty-eight (48) hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service (800) 955-8770, who can aid you in contacting the District Office.

Each person who decides to appeal any action taken at these meetings 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 such appeal is to be based.

George S. Flint
District Manager
Governmental Management Services –
Central Florida, LLC
12/1/23 7540003

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SECTION B

COMMUNITY DEVELOPMENT DISTRICTS

Q: What is a community development district?

A: A community development district (CDD) is an independent special-purpose unit of local government created pursuant to and governed by Chapter 190, Florida Statutes. CDDs offer an attractive and cost-effective means of providing for the financing and management of major infrastructure systems and services to support the development of new communities throughout the State. When used effectively, CDDs can help to spread out development costs, meet the concerns of permitting agencies with respect to long-term maintenance of infrastructure, provide access to sources of increasingly scarce capital, and work cooperatively with other local governments struggling to avoid politically unpopular tax increases.

Q: What powers are CDDs permitted to exercise?

A. As special-purpose local governments, CDDs possess certain legal powers similar to cities and counties, such as the right to enter into contracts, to acquire and dispose of real and personal property, to adopt rules and regulations, and to obtain funds either by borrowing, issuing bonds, or levying non-ad valorem assessments and taxes. CDDs also have certain special powers relating to public improvements and community facilities.

All of these special powers, however, are authorized subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included within the district's external boundaries. Indeed, CDDs do not have zoning, permitting, or comprehensive planning powers. The creation of a CDD does not change any requirements for governmental approvals of any activities or construction within the district. Planning, environmental and land development regulations apply to all development and construction within the CDD regardless of who undertakes the activity.

Q: How are CDDs governed?

A: CDDs are governed by a five-member board of supervisors elected initially by district landowners on a one-acre/one-vote basis. Any fraction of an acre is treated as one acre, entitling the owner to one vote. Commencing no sooner than six years following creation of the district, and only after there are at least 250 qualified electors, supervisors whose terms are expiring will begin to be elected by qualified electors of the district. A "qualified elector" is any person at least 18 years of age who is a United States citizen, a legal resident of Florida and of the district, and who is registered to vote with the supervisor of elections in the county in which the district land is located. Elections are held every two years on the first Tuesday in November.

Board meetings must be noticed in a local newspaper and are always conducted in a public forum. Subject to the requirements of the public records law, CDDs must make district records available for public inspection during normal business hours. The supervisors, themselves, are subject to the same financial disclosure requirements as are other local elected officials. These and other requirements related to public oversight of district activities make CDDs particularly visible in the relation to other entities exercising responsibility for the development of community infrastructure and services.

District supervisors are statutorily entitled to receive for their services an amount not to exceed \$200 per meeting. Each supervisor's maximum annual compensation is \$4,800 plus standard state travel and per diem, unless a higher compensation is approved by a referendum of the district's electors. A district manager, who is appointed by the board of supervisors, oversees the day-to-day operation of the district.

Q: How is a CDD different than other kinds of special districts and homeowners' associations?

A: While other kinds of special districts and homeowners' associations may address certain issues, none of them have the range of powers and options accorded CDDs. In addition to their inability to effectively finance major capital improvements, homeowners' associations generally do not meet regulatory agency requirements for stable, perpetual entities for long-term maintenance of permitted infrastructure. Other kinds of districts have only a limited range of available powers. CDDs, on the other hand, are perpetual entities with extensive financing capabilities, and, as noted previously, are statutorily permitted to exercise a list of general and special powers.

Q: How are district non-ad valorem special assessments determined?

A: Each property owner will pay an annual assessment to the district based on two component costs. One is the fixed amount required to amortize the debt assessed against each lot, parcel or acre for the facilities acquired or constructed by the district. The other is an annual assessment for district operations and maintenance of district facilities. The annual installment amount may vary in relation to the size and location of the property, and to the infrastructure benefit allocated to the property assessed. Each year, the district board of supervisors holds a public hearing to set its budget and the level of assessments. Consequently, district residents will know each year's assessment in advance.

Q: How are defaults on CDD assessments handled?

A: The law governing CDDs permits districts to utilize special assessments in which the debt obligation is assigned to each lot, tract or parcel on a pro rata basis

according to the benefit received from the facilities which are provided by the district. CDDs may use the procedure for levying and collecting assessments provided in either Chapter 170 or Chapter 197, Florida Statutes. The remedies available to the District under each method are slightly different. However, in either case, if there is a default by an owner of property within a CDD the bond holders are permitted to look only to the defaulting property for recovery of the delinquent assessment. Chapter 190 specifically provides that the local general purpose government is not responsible for debt issued by a CDD. See 190.002(3) and 190.016(15), Florida Statutes.

Q: Are CDDs permitted to issue general obligation bonds and levy ad valorem taxes?

A: District boards have the power to issue general obligation bonds and to levy and assess ad valorem taxes subject to referendum approval. Issuance of general obligation bonds is limited to financing or refinancing capital projects or to refunding outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district. An ad valorem tax levied for operating purposes, exclusive of debt service on bonds, is limited to three mills. When authorized by a local general purpose government to exercise one or more of the special powers noted previously, districts may levy an additional two mills. In the event a CDD exercises its ad valorem taxing power, landowner election of supervisors will no longer be permitted. Prior to exercising such power, all board members must be elected by qualified electors of the district.

Q: What about revenue bonds?

A: Districts may issue revenue bonds without limitation as to amount and may do so without referendum approval. Revenue bonds may be secured, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects, from the rates, fees, or other charges to be collected from the users of any project or projects, from any revenue producing undertaking or activity of the district, from special assessments, or from any other source or pledged security. All bonds issued by CDDs must be secured by a trust agreement, and any bonds maturing over a period of more than five years must be validated and confirmed by court decree (excluding refunding bonds).

Q: What are district rates, fees and charges?

A: CDDs are authorized, after a public hearing, to prescribe fix, establish, and collect rates, fees, rentals, or other charges for the facilities and services furnished by the district. Florida law provides that these revenues must be uniform, just and equitable for users of the same class. Additionally, if a CDD furnishes water management and control facilities or water and sewer and facilities, all lands,

buildings, premises, persons, firms, and corporations within the district will be required to use them.

Q: What kinds of disclosures are required with respect to the sale of real property within CDDs?

A: CDDs are required by statute to take affirmative steps to provide full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. This information must be made available to all existing residents of the district and to all prospective residents. Moreover, the CDD is required to furnish developers of any residential development within the district enough copies of this information for distribution to each prospective purchaser. In addition, developers of residential developments within the district, when required by law to provide a public offering statement, must include a copy of information relating to public financing and maintenance of improvements in the public offering statement. Finally, Florida law requires that all contracts for sale of land within a CDD must include the following language:

THE (Name of District) COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND ALL OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

This disclosure language must appear in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract and must be situated immediately prior to the space reserved in the contract for the signature of the purchaser. Additionally, this language must be recorded in the property records of the county in which the CDD is located as part of the CDD's duty to give notice of establishment of the district.

Q: Will the CDD continue indefinitely as a special-purpose local government responsible for the lands presently encompassed by the district?

A: Ordinarily, a CDD will remain in existence indefinitely less it is merged with another district, is dissolved, or unless all of the specific community development services it has been authorized to perform are transferred to a general-purpose unit of local government. A transfer of services is accomplished by adoption of an ordinance demonstrating the ability of the local general-purpose government to provide the service as efficiently and economically as the district, and at a level of quality equal to or higher than the level of quality actually delivered by the district.

Q: What experience does Hopping Green & Sams, P.A., have in the establishment and representation of CDDs?

A: Hopping Green & Sams has been providing clients with advice regarding the use of CDDs since the advent of Chapter 190. CDDs have been shown to provide extremely important and significant benefits to a project. However, it is not our view that CDDs are the right choice in circumstance. The benefits of a district do come at a cost. We believe it is important that each developer carefully evaluate the infrastructure and maintenance needs of the development, permitting requirements, the financial markets, the costs associated with the establishment and operation of the district, and, not insignificantly, the political climate in the affected area.

HGS presently serves as general counsel to the following CDDs: Brandy Creek; Double Branch; Rivercrest; St. Johns Forest; Harbor Bay; Hamal; Capital Region; Bartram Springs; Sampson Creek; Julington Creek Plantation; Marshall Creek; Indigo; Dunes; Dovera; Viera East; Central Viera; Mud Lake; Myrtle Creek; Boggy Creek; GreeneWay; Pier Park; Bella Terra; Harbor Isles; Urban Orlando; Falcon Trace; Poinciana; Brighton Lakes; Greyhawk Landing; Narcoossee; East Park; Tomoka; Celebration; and Enterprise. In addition, we serve as counsel for the petitioner in the pending petitions for establishment of the Aberdeen, Durbin Crossing, Heritage Park and World Commerce CDDs to be located in St. Johns County, the Middle Village CDD to be located in Clay County, the Westport CDD to be located in Duval County, the Freedom Commerce CDD, to be located in the City of Jacksonville, the Lake Austin CDD to be located in Orange County, the Amelia National CDD to be located in Nassau County, and the Connerton CDD to be located in Pasco County. Finally, we represent the petitioners in relation to the recently established Highlands CDD located in Hillsborough County, the Lexington CDD located in Manatee County, and the Arlington Ridge CDD located in the City of Leesburg. It has been our practice to view the creation of the CDD as part of a much larger process. This process includes an evaluation of the use of the district, its creation (whether by the Governor and Cabinet or by a local government), its initial set up and operation, and bond validation and issuance. In most cases, we continue to act as general counsel for the district, assisting in contract negotiations, bidding, budgeting, and other matters.

Our longstanding involvement with CDDs, from creation through continuing operation, has provided us with a particularly valuable perspective to bring to district

issues as they arise in the legislative process. We played a significant role in the amendments to Chapter 190 enacted in 1985, and on behalf of a number of clients, were instrumental in drafting and passing the 1991 amendments. Of particular significance were the amendments which provided for extended control of the district board by the landowners, rather than the voters. It should also be noted that the 1991 amendments were passed notwithstanding the media attention to district collapses in Colorado and elsewhere. Our knowledge of and involvement with CDDs allowed HGS to play a major role in providing legislators with accurate information on the differences in the legislative approaches in those states and in convincing them that Florida law contained significant safeguards not found in other state statutes.

Select Year:

The 2021 Florida Statutes

[Title XIII](#)

PLANNING AND DEVELOPMENT

[Chapter 190](#)

COMMUNITY DEVELOPMENT DISTRICTS

[View Entire Chapter](#)

CHAPTER 190

COMMUNITY DEVELOPMENT DISTRICTS

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- 190.002 Legislative findings, policies, and intent.
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- 190.047 Incorporation or annexation of district.
- 190.048 Sale of real estate within a district; required disclosure to purchaser.

190.0485 Notice of establishment.

190.049 Special acts prohibited.

190.001 Short title.—This act may be cited as the “Uniform Community Development District Act of 1980.”

History.—s. 2, ch. 80-407.

190.002 Legislative findings, policies, and intent.—

(1) The Legislature finds that:

(a) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation, and duration of independent districts to manage and finance basic community development services; and that, based upon a proper and fair determination of applicable facts, an independent district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a solution to the state’s planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers.

(b) It is in the public interest that any independent special district created pursuant to state law not outlive its usefulness and that the operation of such a district and the exercise by the district of its powers be consistent with applicable due process, disclosure, accountability, ethics, and government-in-the-sunshine requirements which apply both to governmental entities and to their elected and appointed officials.

(c) It is in the public interest that long-range planning, management, and financing and long-term maintenance, upkeep, and operation of basic services for community development districts be under one coordinated entity.

(2) It is the policy of this state:

(a) That the needless and indiscriminate proliferation, duplication, and fragmentation of local general-purpose government services by independent districts is not in the public interest.

(b) That independent districts are a legitimate alternative method available for use by the private and public sectors, as authorized by state law, to manage and finance basic services for community developments.

(c) That the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under chapter 380 and that the district so established does not have any zoning or permitting powers governing development.

(d) That the process of establishing such a district pursuant to uniform general law be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant.

(3) It is the legislative intent and purpose, based upon, and consistent with, its findings of fact and declarations of policy, to authorize a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance basic services for community development. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent district. It is further the purpose and intent of the Legislature that a district created under this chapter not have or exercise any zoning or development permitting power, that the establishment of the independent community development district as provided in this act not be a development order within the meaning of chapter 380, and that all applicable planning and permitting laws, rules, regulations, and policies control the development of the land to be serviced by the district. It is further the purpose and intent of the Legislature that no debt or obligation of a district constitute a burden on any local general-purpose government without its consent.

History.—s. 2, ch. 80-407; s. 1, ch. 84-360.

190.003 Definitions.—As used in this chapter, the term:

(1) “Ad valorem bonds” means bonds which are payable from the proceeds of ad valorem taxes levied on real and tangible personal property and which are generally referred to as general obligation bonds.

(2) “Assessable improvements” means, without limitation, any and all public improvements and community facilities that the district is empowered to provide in accordance with this act.

(3) “Assessment bonds” means special obligations of the district which are payable solely from proceeds of the special assessments levied for an assessable project.

(4) “Board” or “board of supervisors” means the governing board of the district or, if such board has been abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(5) “Bond” includes “certificate,” and the provisions which are applicable to bonds are equally applicable to certificates. The term “bond” includes any general obligation bond, assessment bond, refunding bond, revenue bond, and other such obligation in the nature of a bond as is provided for in this act, as the case may be.

(6) “Community development district” means a local unit of special-purpose government which is created pursuant to this act and limited to the performance of those specialized functions authorized by this act; the governing head of which is a body created, organized, and constituted and authorized to function specifically as prescribed in this act for the purpose of the delivery of urban community development services; and the formation, powers, governing body, operation, duration, accountability, requirements for disclosure, and termination of which are as required by general law.

(7) “Compact, urban, mixed-use district” means a district located within a municipality and within a community redevelopment area created pursuant to s. 163.356, that consists of a maximum of 75 acres, and has development entitlements of at least 400,000 square feet of retail development and 500 residential units.

(8) “Cost,” when used with reference to any project, includes, but is not limited to:

(a) The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

(b) The cost of surveys, estimates, plans, and specifications.

(c) The cost of improvements.

(d) Engineering, fiscal, and legal expenses and charges.

(e) The cost of all labor, materials, machinery, and equipment.

(f) The cost of all lands, properties, rights, easements, and franchises acquired.

(g) Financing charges.

(h) The creation of initial reserve and debt service funds.

(i) Working capital.

(j) Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

(k) The cost of issuance of bonds pursuant to this act, including advertisements and printing.

(l) The cost of any election held pursuant to this act and all other expenses of issuance of bonds.

(m) The discount, if any, on the sale or exchange of bonds.

(n) Administrative expenses.

(o) Such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

(p) Payments, contributions, dedications, fair share or concurrency obligations, and any other exactions required as a condition to receive any government approval or permit necessary to accomplish any district purpose.

(9) “District” means the community development district.

(10) “District manager” means the manager of the district.

(11) “District roads” means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges, and thoroughfares of all kinds and descriptions.

(12) “Elector” means a landowner or qualified elector.

(13) “General obligation bonds” means bonds which are secured by, or provide for their payment by, the pledge, in addition to those special taxes levied for their discharge and such other sources as may be provided for

their payment or pledged as security under the resolution authorizing their issuance, of the full faith and credit and taxing power of the district and for payment of which recourse may be had against the general fund of the district.

(14) “Landowner” means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

(15) “Local general-purpose government” means a county, municipality, or consolidated city-county government.

(16) “Project” means any development, improvement, property, utility, facility, works, enterprise, or service now existing or hereafter undertaken or established under the provisions of this act.

(17) “Qualified elector” means any person at least 18 years of age who is a citizen of the United States, a legal resident of Florida and of the district, and who registers to vote with the supervisor of elections in the county in which the district land is located.

(18) “Refunding bonds” means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

(19) “Revenue bonds” means obligations of the district which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the district.

(20) “Sewer system” means any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, without limitation, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource. Without limiting the generality of the foregoing, the term “sewer system” includes treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected therewith; and all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such system and necessary or convenient for operation thereof.

(21) “Water management and control facilities” means any lakes, canals, ditches, reservoirs, dams, levees, sluiceways, floodways, curbs, gutters, pumping stations, or any other works, structures, or facilities for the conservation, control, development, utilization, and disposal of water, and any purposes appurtenant, necessary, or incidental thereto. The term “water management and control facilities” includes all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such water management and control facilities or necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance thereof.

(22) “Water system” means any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water. Without limiting the generality of the foregoing, the term “water system” includes dams, reservoirs, storage, tanks, mains, lines, valves, hydrants, pumping stations, chilled water distribution systems, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all rights, easements, and franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

History.—s. 2, ch. 80-407; s. 2, ch. 84-360; s. 10, ch. 87-363; s. 2, ch. 91-308; s. 33, ch. 2000-364; s. 1, ch. 2007-160; s. 1, ch. 2009-142.

(1) This act constitutes the sole authorization for the future establishment of independent community development districts which have any of the specialized functions and powers provided by this act.

(2) The adoption of chapter 84-360, Laws of Florida, does not affect the validity of the establishment of any community development district or other special district existing on June 29, 1984; and existing community development districts will be subject to the provisions of chapter 190, as amended. All actions taken prior to July 1, 2000, by a community development district existing on June 29, 1984, if taken pursuant to the authority contained in chapter 80-407, Laws of Florida, or this chapter are hereby deemed to have adequate statutory authority. Nothing herein shall affect the validity of any outstanding indebtedness of a community development district established prior to June 29, 1984, and such district is hereby authorized to continue to comply with all terms and requirements of trust indentures or loan agreements relating to such outstanding indebtedness.

(3) The establishment of an independent community development district as provided in this act is not a development order within the meaning of chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Community Planning Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government.

(4) The exclusive charter for a community development district shall be the uniform community development district charter as set forth in ss. 190.006-190.041, including the special powers provided by s. 190.012.

History.—s. 2, ch. 80-407; s. 3, ch. 84-360; s. 27, ch. 85-55; s. 34, ch. 87-224; s. 34, ch. 99-378; s. 9, ch. 2000-304; s. 39, ch. 2011-139.

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 2,500 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the Florida Land and Water Adjudicatory Commission. The petition shall contain:

1. A metes and bounds description of the external boundaries of the district. Any real property within the external boundaries of the district which is to be excluded from the district shall be specifically described, and the last known address of all owners of such real property shall be listed. The petition shall also address the impact of the proposed district on any real property within the external boundaries of the district which is to be excluded from the district.

2. The written consent to the establishment of the district by all landowners whose real property is to be included in the district or documentation demonstrating that the petitioner has control by deed, trust agreement, contract, or option of 100 percent of the real property to be included in the district, and when real property to be included in the district is owned by a governmental entity and subject to a ground lease as described in s. 190.003(14), the written consent by such governmental entity.

3. A designation of five persons to be the initial members of the board of supervisors, who shall serve in that office until replaced by elected members as provided in s. 190.006.

4. The proposed name of the district.

5. A map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence.

6. Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services. These estimates shall be submitted in good faith but are not binding and may be subject to change.

7. A designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district by the future land use plan element of the effective local government comprehensive plan of which all mandatory elements have been adopted by the applicable general-purpose local government in compliance with the Community Planning Act.

8. A statement of estimated regulatory costs in accordance with the requirements of s. 120.541.

(b) Prior to filing the petition, the petitioner shall:

1. Pay a filing fee of \$15,000 to the county, if located within an unincorporated area, or to the municipality, if located within an incorporated area, and to each municipality the boundaries of which are contiguous with, or contain all or a portion of the land within, the external boundaries of the district.

2. Submit a copy of the petition to the county, if located within an unincorporated area, or to the municipality, if located within an incorporated area, and to each municipality the boundaries of which are contiguous with, or contain all or a portion of, the land within the external boundaries of the district.

3. If land to be included within a district is located partially within the unincorporated area of one or more counties and partially within a municipality or within two or more municipalities, pay a \$15,000 filing fee to each entity. Districts established across county boundaries shall be required to maintain records, hold meetings and hearings, and publish notices only in the county where the majority of the acreage within the district lies.

(c) Such county and each such municipality required by law to receive a petition may conduct a public hearing to consider the relationship of the petition to the factors specified in paragraph (e). The public hearing shall be concluded within 45 days after the date the petition is filed unless an extension of time is requested by the petitioner and granted by the county or municipality. The county or municipality holding such public hearing may by resolution express its support of, or objection to the granting of, the petition by the Florida Land and Water Adjudicatory Commission. A resolution must base any objection to the granting of the petition upon the factors specified in paragraph (e). Such county or municipality may present its resolution of support or objection at the Florida Land and Water Adjudicatory Commission hearing and shall be afforded an opportunity to present relevant information in support of its resolution.

(d) A local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified in paragraph (e). The hearing shall be held at an accessible location in the county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published for 4 successive weeks on a newspaper's website and the statewide legal notice website provided in s. 50.0211(5) or, if published in print, in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing as provided in chapter 50. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. If published in the print edition of a newspaper, the advertisement may not be placed in the portion of the newspaper where legal notices and classified advertisements appear. The advertisement must be published in a newspaper in the county and of general interest and readership in the community pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least weekly, unless the only newspaper in the community is published less than weekly. If the notice is published in the print edition of the newspaper, the map must also be included in any online advertisement pursuant to s. 50.0211. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

(e) The Florida Land and Water Adjudicatory Commission shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local general-purpose governments as provided in paragraph (c), and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.

2. Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

6. Whether the area that will be served by the district is amenable to separate special-district government.

(f) The Florida Land and Water Adjudicatory Commission shall not adopt any rule which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006-190.041, except as provided in s. 190.012. A rule establishing a community development district shall only contain the following:

1. A metes and bounds description of the external boundaries of the district and any real property within the external boundaries of the district which is to be excluded.

2. The names of five persons designated to be the initial members of the board of supervisors.

3. The name of the district.

(g) The Florida Land and Water Adjudicatory Commission may adopt rules setting forth its procedures for considering petitions to establish, expand, modify, or delete uniform community development districts or portions thereof consistent with the provisions of this section.

(2) The exclusive and uniform method for the establishment of a community development district of less than 2,500 acres in size or a community development district of up to 7,000 acres in size located within a connected-city corridor established pursuant to s. 163.3246(13) shall be pursuant to an ordinance adopted by the county commission of the county having jurisdiction over the majority of land in the area in which the district is to be located granting a petition for the establishment of a community development district as follows:

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the county commission. The petition shall contain the same information as required in paragraph (1)(a).

(b) A public hearing on the petition shall be conducted by the county commission in accordance with the requirements and procedures of paragraph (1)(d).

(c) The county commission shall consider the record of the public hearing and the factors set forth in paragraph (1)(e) in making its determination to grant or deny a petition for the establishment of a community development district.

(d) The county commission may not adopt any ordinance which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006-190.041. An ordinance establishing a community development district shall only include the matters provided for in paragraph (1)(f) unless the commission consents to any of the optional powers under s. 190.012(2) at the request of the petitioner.

(e) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipal corporation, then the petition requesting establishment of a community development district under this act shall be filed by the petitioner with that particular municipal corporation. In such event, the duties of the county, hereinabove described, in action upon the petition shall be the duties of the municipal corporation. If any of the land area of a proposed district is within the land area of a municipality, the county commission may not create the district without municipal approval. If all of the land in the area for the proposed district, even if less than 2,500 acres, is within the territorial jurisdiction of two or more municipalities or two or more counties, except for proposed districts within a connected-city corridor established pursuant to s. 163.3246(13), the petition shall be filed with the Florida Land and Water Adjudicatory Commission and proceed in accordance with subsection (1).

(f) Notwithstanding any other provision of this subsection, within 90 days after a petition for the establishment of a community development district has been filed pursuant to this subsection, the governing body of the county or municipal corporation may transfer the petition to the Florida Land and Water Adjudicatory Commission, which shall make the determination to grant or deny the petition as provided in subsection (1). A county or municipal corporation shall have no right or power to grant or deny a petition that has been transferred to the Florida Land and Water Adjudicatory Commission.

(3) The governing body of any existing special district, created to provide one or more of the public improvements and community facilities authorized by this act, may petition for reestablishment of the existing district as a community development district pursuant to this act. The petition shall contain the information specified in subparagraphs (1)(a)1., 3., 4., 5., 6., and 7. and shall not require payment of a fee pursuant to

paragraph (1)(b). In such case, the new district so formed shall assume the existing obligations, indebtedness, and guarantees of indebtedness of the district so subsumed, and the existing district shall be terminated.

History.—s. 2, ch. 80-407; ss. 4, 5, ch. 84-360; s. 28, ch. 85-55; s. 35, ch. 87-224; s. 34, ch. 96-410; s. 6, ch. 98-146; s. 35, ch. 99-378; s. 34, ch. 2000-364; s. 2, ch. 2007-160; s. 33, ch. 2008-4; s. 4, ch. 2009-142; s. 40, ch. 2011-139; s. 6, ch. 2012-212; s. 13, ch. 2015-30; s. 1, ch. 2016-94; s. 10, ch. 2018-158; s. 17, ch. 2021-17.

190.006 Board of supervisors; members and meetings.—

(1) The board of the district shall exercise the powers granted to the district pursuant to this act. The board shall consist of five members; except as otherwise provided herein, each member shall hold office for a term of 2 years or 4 years, as provided in this section, and until a successor is chosen and qualifies. The members of the board must be residents of the state and citizens of the United States.

(2)(a) Within 90 days following the effective date of the rule or ordinance establishing the district, there shall be held a meeting of the landowners of the district for the purpose of electing five supervisors for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than 14 days or more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting. The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions.

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. Each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. For purposes of determining voting interests, platted lots shall be counted individually and rounded up to the nearest whole acre. The acreage of platted lots shall not be aggregated for determining the number of voting units held by a landowner or a landowner's proxy. The two candidates receiving the highest number of votes shall be elected for a period of 4 years, and the three candidates receiving the next largest number of votes shall be elected for a period of 2 years, with the term of office for each successful candidate commencing upon election. The members of the first board elected by landowners shall serve their respective 4-year or 2-year terms; however, the next election by landowners shall be held on the first Tuesday in November. Thereafter, there shall be an election of supervisors for the district every 2 years in November on a date established by the board and noticed pursuant to paragraph (a). The second and subsequent landowners' election shall be announced at a public meeting of the board at least 90 days prior to the date of the landowners' meeting and shall also be noticed pursuant to paragraph (a). Instructions on how all landowners may participate in the election, along with sample proxies, shall be provided during the board meeting that announces the landowners' meeting. The two candidates receiving the highest number of votes shall be elected to serve for a 4-year period, and the remaining candidate elected shall serve for a 2-year period.

(3)(a)1. If the board proposes to exercise the ad valorem taxing power authorized by s. 190.021, the district board shall call an election at which the members of the board of supervisors will be elected. Such election shall be held in conjunction with a primary or general election unless the district bears the cost of a special election. Each member shall be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members shall be elected for a period of 4 years and two members shall be elected for a period of 2 years. All elected board members must be qualified electors of the district.

2.a. Regardless of whether a district has proposed to levy ad valorem taxes, commencing 6 years after the initial appointment of members or, for a district exceeding 5,000 acres in area or for a compact, urban, mixed-use district, 10 years after the initial appointment of members, the position of each member whose term has expired

shall be filled by a qualified elector of the district, elected by the qualified electors of the district. However, for those districts established after June 21, 1991, and for those existing districts established after December 31, 1983, which have less than 50 qualified electors on June 21, 1991, sub-subparagraphs b. and d. shall apply. If, in the 6th year after the initial appointment of members, or 10 years after such initial appointment for districts exceeding 5,000 acres in area or for a compact, urban, mixed-use district, there are not at least 250 qualified electors in the district, or for a district exceeding 5,000 acres or for a compact, urban, mixed-use district, there are not at least 500 qualified electors, members of the board shall continue to be elected by landowners.

b. After the 6th or 10th year, once a district reaches 250 or 500 qualified electors, respectively, then the positions of two board members whose terms are expiring shall be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. The remaining board member whose term is expiring shall be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members shall be qualified electors elected by qualified electors of the district for a term of 4 years.

c. Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district shall be held at the general election in November. The board shall adopt a resolution if necessary to implement this requirement when the board determines the number of qualified electors as required by sub-subparagraph d., to extend or reduce the terms of current board members.

d. On or before June 1 of each year, the board shall determine the number of qualified electors in the district as of the immediately preceding April 15. The board shall use and rely upon the official records maintained by the supervisor of elections and property appraiser or tax collector in each county in making this determination. Such determination shall be made at a properly noticed meeting of the board and shall become a part of the official minutes of the district.

(b) Elections of board members by qualified electors held pursuant to this subsection shall be nonpartisan and shall be conducted in the manner prescribed by law for holding general elections. The district shall publish a notice of the qualifying period set by the supervisor of elections for each election at least 2 weeks prior to the start of the qualifying period. Board members shall assume the office on the second Tuesday following their election. If no elector qualifies for a seat to be filled in an election, a vacancy in that seat shall be declared by the board effective on the second Tuesday following the election. Within 90 days thereafter, the board shall appoint a qualified elector to fill the vacancy. Until such appointment, the incumbent board member in that seat shall remain in office.

(c) Candidates seeking election to office by qualified electors under this subsection shall conduct their campaigns in accordance with the provisions of chapter 106 and shall file qualifying papers and qualify for individual seats in accordance with s. 99.061.

(d) The supervisor of elections shall appoint the inspectors and clerks of elections, prepare and furnish the ballots, designate polling places, and canvass the returns of the election of board members by qualified electors. The county canvassing board shall declare and certify the results of the election.

(4) Members of the board shall be known as supervisors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by s. 876.05. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(5) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(6) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of (name of district) Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings,

certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located or within the boundaries of a development of regional impact or Florida Quality Development, or combination of a development of regional impact and Florida Quality Development, which includes the district.

(8) Each supervisor shall be entitled to receive for his or her services an amount not to exceed \$200 per meeting of the board of supervisors, not to exceed \$4,800 per year per supervisor, or an amount established by the electors at referendum. In addition, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061.

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286.

History.—s. 2, ch. 80-407; s. 6, ch. 84-360; s. 23, ch. 85-80; s. 3, ch. 91-308; s. 962, ch. 95-147; s. 36, ch. 99-378; s. 19, ch. 2000-158; s. 35, ch. 2004-345; s. 32, ch. 2004-353; s. 3, ch. 2007-160; s. 33, ch. 2008-95; s. 2, ch. 2009-142.

190.007 Board of supervisors; general duties.—

(1) The board shall employ, and fix the compensation of, a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible for preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this act, for maintaining and operating the equipment owned by the district, and for performing such other duties as may be prescribed by the board. It shall not be a conflict of interest under chapter 112 for a board member or the district manager or another employee of the district to be a stockholder, officer, or employee of a landowner or of an entity affiliated with a landowner. The district manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board. For purposes of s. 8(h)(2), Art. II of the State Constitution, a board member or a public employee of a district does not abuse his or her public position if the board member or public employee commits an act or omission that is authorized under this subsection, s. 112.313(7), (12), (15), or (16), or s. 112.3143(3)(b), and an abuse of a board member's public position does not include any act or omission in connection with a vote when the board member has followed the procedures required by s. 112.3143.

(2) The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order, or pursuant to the resolution, of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant at least once a year.

(3) The board is authorized to select as a depository for its funds any qualified public depository as defined in s. 280.02 which meets all the requirements of chapter 280 and has been designated by the Chief Financial Officer as a qualified public depository, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

History.—s. 2, ch. 80-407; s. 7, ch. 84-360; s. 32, ch. 86-191; s. 963, ch. 95-147; s. 170, ch. 2003-261; s. 4, ch. 2007-160; s. 3, ch. 2020-77.

190.008 Budget; reports and reviews.—

(1) The district shall provide financial reports in such form and such manner as prescribed pursuant to this chapter and chapter 218.

(2)(a) On or before each June 15, the district manager shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of

income to the district from the taxes, assessments, and other revenues provided in this act. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The board shall indicate its approval of the budget by resolution, which resolution shall provide for a hearing on the budget as approved. Notice of the hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for 2 consecutive weeks, except that the first publication shall be not fewer than 15 days prior to the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the board shall hear all objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget shall be adopted prior to October 1 of each year.

(b) At least 60 days prior to adoption, the district board shall submit to the local governing authorities having jurisdiction over the area included in the district, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations.

(c) The local governing authorities may review the proposed annual budget and any long-term financial plan or program and may submit written comments to the board for its assistance and information in adopting its annual budget and long-term financial plan or program.

History.—s. 2, ch. 80-407; s. 5, ch. 2007-160.

190.009 Disclosure of public financing.—

(1) The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents, and to all prospective residents, of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy, and any developer of a residential development within the district, when required by law to provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement. The district shall file the disclosure documents required by this subsection and any amendments thereto in the property records of each county in which the district is located.

(2) The Department of Economic Opportunity shall keep a current list of districts and their disclosures pursuant to this act and shall make such studies and reports and take such actions as it deems necessary.

History.—s. 2, ch. 80-407; s. 17, ch. 81-167; s. 15, ch. 83-55; s. 1, ch. 85-60; s. 2, ch. 90-46; s. 9, ch. 94-218; s. 37, ch. 99-378; s. 6, ch. 2007-160; s. 10, ch. 2008-240; s. 70, ch. 2011-142.

190.011 General powers.—The district shall have, and the body may exercise, the following powers:

(1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(2) To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

(3) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set forth in s. 190.033.

(4) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(5) To adopt rules and orders pursuant to the provisions of chapter 120 prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.

(6) To maintain an office at such place or places as it may designate within a county in which the district is located or within the boundaries of a development of regional impact or a Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, which includes the district, which office must be reasonably accessible to the landowners. Meetings pursuant to s. 189.015(3) of a district within the boundaries of a development of regional impact or Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, may be held at such office.

(7)(a) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for any of the purposes authorized by this act.

(b) When real property in the district is owned by a governmental entity and subject to a ground lease as described in s. 190.003(14), to collect ground rent from landowners pursuant to a contract with such governmental entity and to contract with the county tax collector for collection of such ground rent using the procedures authorized in s. 197.3631, other than the procedures contained in s. 197.3632.

(8) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this act.

(9) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such tax and special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(10) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(11) To exercise within the district, or beyond the district with prior approval by resolution of the governing body of the county if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of chapters 73 and 74, over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.

(12) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(13) To assess and impose upon lands in the district ad valorem taxes as provided by this act.

(14) To determine, order, levy, impose, collect, and enforce special assessments pursuant to this act and chapter 170. Such special assessments may, in the discretion of the district, be collected and enforced pursuant to the provisions of ss. 197.3631, 197.3632, and 197.3635, chapter 170, or chapter 173.

(15) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(16) To exercise such special powers as may be authorized by this act.

History.—s. 2, ch. 80-407; s. 8, ch. 84-360; s. 46, ch. 89-169; s. 4, ch. 91-308; s. 38, ch. 99-378; s. 1, ch. 2003-39; s. 7, ch. 2007-160; s. 5, ch. 2009-142; s. 69, ch. 2014-22.

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

(a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(b) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d)1. District roads equal to or exceeding the applicable specifications of the county in which such district roads are located; roads and improvements to existing public roads that are owned by or conveyed to the local general-purpose government, the state, or the Federal Government; street lights; alleys; landscaping; hardscaping; and the undergrounding of electric utility lines. Districts may request the underground placement of utility lines by the local retail electric utility provider in accordance with the utility's tariff on file with the Public Service Commission and may finance the required contribution.

2. Buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(e) Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

(f) Conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(g) Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. 380.06 approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

(h) Any other project, facility, or service required by a development approval, interlocal agreement, zoning condition, or permit issued by a governmental authority with jurisdiction in the district.

(2) After the local general-purpose government within the jurisdiction of which a power specified in this subsection is to be exercised consents to the exercise of such power by the district, the district shall have the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

(a) Parks and facilities for indoor and outdoor recreational, cultural, and educational uses.

(b) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.

(c) School buildings and related structures and site improvements, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board.

(d) Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the district may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the district boundaries. However, this paragraph does not prohibit a

district from contracting with a towing operator to remove a vehicle or vessel from a district-owned facility or property if the district follows the authorization and notice and procedural requirements in s. 715.07 for an owner or lessee of private property. The district's selection of a towing operator is not subject to public bidding if the towing operator is included in an approved list of towing operators maintained by the local government that has jurisdiction over the district's facility or property.

(e) Control and elimination of mosquitoes and other arthropods of public health importance.

(f) Waste collection and disposal.

(3) To adopt and enforce appropriate rules following the procedures of chapter 120, in connection with the provision of one or more services through its systems and facilities.

(4)(a) To adopt rules necessary for the district to enforce certain deed restrictions pertaining to the use and operation of real property within the district and outside the district pursuant to an interlocal agreement under chapter 163 if within another district or, if not within another district, with the consent of the county or municipality in which the deed restriction enforcement is proposed to occur. For the purpose of this subsection, the term "deed restrictions" means those covenants, conditions, restrictions, compliance mechanisms, and enforcement remedies contained in any applicable declarations of covenants and restrictions that govern the use and operation of real property and, for which covenants, conditions, and restrictions, there is no homeowners' association or property owner's association having respective enforcement powers unless, with respect to a homeowners' association whose board is under member control, the association and the district agree in writing to enforcement by the district. The district may adopt by rule all or certain portions of the deed restrictions that:

1. Relate to limitations, prohibitions, compliance mechanisms, or enforcement remedies that apply only to external appearances or uses and are deemed by the district to be generally beneficial for the district's landowners and for which enforcement by the district is appropriate, as determined by the district's board of supervisors; or
2. Are consistent with the requirements of a development order or regulatory agency permit.

(b) The board may vote to adopt such rules only when all of the following conditions exist:

1. The district was in existence on the effective date of this subsection, or is located within a development that consists of multiple developments of regional impact and a Florida Quality Development.
2. For residential districts, the majority of the board has been elected by qualified electors pursuant to the provisions of s. 190.006.

3. For residential districts, less than 25 percent of residential units are in a homeowners' association.

4. The declarant in any applicable declarations of covenants and restrictions has provided the board with a written agreement that such rules may be adopted. A memorandum of the agreement shall be recorded in the public records.

(c) Within 60 days after such rules take effect, the district shall record a notice of rule adoption stating generally what rules were adopted and where a copy of the rules may be obtained. Districts may impose fines for violations of such rules and enforce such rules and fines in circuit court through injunctive relief.

(d) The owners of property located outside the boundary of the district shall elect an advisor to the district board pursuant to paragraph (e). The sole responsibilities of the district board advisor are to review enforcement actions proposed by the district board against properties located outside the district and make recommendations relating to those proposed actions. Before the district board may enforce its rules against any owner of property located outside the district, the district board shall request the district board advisor to make a recommendation on the proposed enforcement action. The district board advisor must render a recommendation within 30 days after receiving a request from the district board or is deemed to have no objection to the district board's proposed decision or action.

(e)1. Whenever an interlocal agreement is entered into pursuant to paragraph (a), a district board advisor seat shall be created for one elected landowner whose property is within the jurisdiction of the governmental entity entering into the interlocal agreement but not within the boundaries of the district. The district board advisor shall be elected by landowners whose land is subject to enforcement by the district but whose land is not within the boundaries of the district. The district board advisor shall be elected for a 2-year term. The first election for a

district board advisor shall be within 90 days after the effective date of the interlocal agreement between the district and the government entity.

2. The election of the district board advisor shall occur at a meeting of eligible landowners. The district shall publish notice of the meeting and election once a week for 2 consecutive weeks in a newspaper of general circulation in the area of the parties to the interlocal agreement. The notice must include instructions on how all landowners may participate in the election and how to obtain a proxy form. The last day of publication may not be less than 14 days or more than 28 days before the date of the election. The landowners, when assembled at the meeting, shall organize by electing a chair who shall conduct the meeting. The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions.

3. At the meeting, each landowner is entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. Each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. For purposes of determining voting interests, platted lots shall be counted individually and rounded up to the nearest whole acre. The acreage of platted lots may not be aggregated for purposes of determining the number of voting units held by a landowner or a landowner's proxy.

4. If a vacancy occurs in the district advisor seat, a special landowner election shall be held within 60 days after the vacancy using the notice, proxy, and acreage voting provisions of this subsection.

History.—s. 2, ch. 80-407; s. 51, ch. 83-217; s. 9, ch. 84-360; s. 47, ch. 89-169; s. 8, ch. 93-51; s. 39, ch. 99-378; s. 15, ch. 2000-317; s. 47, ch. 2000-364; s. 33, ch. 2004-345; s. 30, ch. 2004-353; s. 8, ch. 2007-160; s. 9, ch. 2009-142; s. 2, ch. 2016-94; s. 11, ch. 2018-158.

190.0125 Purchase, privatization, or sale of water, sewer, or wastewater reuse utility by district.—No community development district may purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the community development district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the community development district shall consider, at a minimum, the following:

- (1) The most recent available income and expense statement for the utility;
- (2) The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;
- (3) A statement of the existing rate base of the utility for regulatory purposes;
- (4) The physical condition of the utility facilities being purchased, sold, or subject to a wastewater facility privatization contract;
- (5) The reasonableness of the purchase, sales, or wastewater facility privatization contract price and terms;
- (6) The impacts of the purchase, sale, or wastewater facility privatization contract on utility customers, both positive and negative;

(7)(a) Any additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make that investment, whether the purchaser is the community development district or the entity purchasing the utility from the community development district;

(b) In the case of a wastewater facility privatization contract, the terms and conditions on which the private firm will provide capital investment and financing or a combination thereof for contemplated capital replacements, additions, expansions, and repairs. The community development district shall give significant weight to this criteria.

(8) The alternatives to the purchase, sale, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made;

(9)(a) The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the community development district or the entity purchasing the utility from the community development district;

(b) In the case of a wastewater facility privatization contract, the community development district shall give significant weight to the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract; and

(10) All moneys paid by a private firm to a community development district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting property taxes, wastewater service rates, or debt reduction or making infrastructure improvements or capital asset expenditures or other public purpose; provided, however, nothing herein shall preclude the community development district from using all or part of the moneys for the purpose of the community development district's qualification for relief from the repayment of federal grant awards associated with the wastewater system as may be required by federal law or regulation.

The community development district shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service, whether the purchaser or private firm is the community development district or the entity purchasing the utility from the community development district.

History.—s. 3, ch. 84-84; s. 9, ch. 93-51; s. 9, ch. 96-202.

190.013 Water management and control plan.—In the event that the board assumes the responsibility for providing water management and control for the district as provided in s. 190.012(1)(a) which is to be financed by benefit special assessments, the board shall proceed to adopt water management and control plans, assess for benefits, and apportion and levy special assessments, as follows:

(1) The board shall cause to be made by the district's engineer, or such other engineer or engineers as the board may employ for that purpose, complete and comprehensive water management and control plans for the lands located within the district that will be improved in any part or in whole by any system of facilities that may be outlined and adopted, and the engineer shall make a report in writing to the board with maps and profiles of said surveys and an estimate of the cost of carrying out and completing the plans.

(2) Upon the completion of such plans, the board shall hold a hearing thereon to hear objections thereto, shall give notice of the time and place fixed for such hearing by publication once each week for 2 consecutive weeks in a newspaper of general circulation in the general area of the district, and shall permit the inspection of the plan at the office of the district by all persons interested. All objections to the plan shall be filed at or before the time fixed in the notice for the hearing and shall be in writing.

(3) After the hearing, the board shall consider the proposed plan and any objections thereto and may modify, reject, or adopt the plan or continue the hearing to a day certain for further consideration of the proposed plan or modifications thereof.

(4) When the board approves a plan, a resolution shall be adopted and a certified copy thereof shall be filed in the office of the secretary and incorporated by him or her into the records of the district.

(5) The water management and control plan may be altered in detail from time to time until the appraisal record herein provided is filed, but not in such manner as to affect materially the conditions of its adoption. After the appraisal record has been filed, no alteration of the plan shall be made, except as provided by this act.

(6) Within 20 days after the final adoption of the plan by the board, the board shall proceed pursuant to s. 298.301.

History.—s. 2, ch. 80-407; s. 5, ch. 91-308; s. 964, ch. 95-147; s. 26, ch. 97-40.

190.014 Issuance of bond anticipation notes.—In addition to the other powers provided for in this act, and not in limitation thereof, the district shall have the power, at any time, and from time to time after the issuance of any bonds of the district shall have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue. Such notes shall be in such denomination or denominations, bear interest at such rate as the board may determine in compliance with s. 215.84, mature at such time or times not later than 5 years from the date of issuance, and be in such form and executed in such manner as the board shall prescribe. Such notes may be sold at either public or private sale or, if such notes shall be renewal notes, may be exchanged for notes then outstanding on such terms as the board shall determine. Such notes shall be paid from the proceeds of such bonds when issued. The board may, in its discretion, in lieu of retiring the notes by means of bonds, retire them by means of current revenues or from any taxes or assessments levied for the payment of such bonds; but in such event a like amount of the bonds authorized shall not be issued. Non-ad valorem assessments levied to pay interest on bond anticipation notes shall not constitute an installment of assessments under s. 190.022.

History.—s. 2, ch. 80-407; s. 9, ch. 83-215; s. 9, ch. 2007-160.

190.015 Short-term borrowing.—The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear such interest as the board may determine in compliance with s. 215.84, and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. For the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants, or other evidences of debt to be payable at such times, to bear such interest as the board may determine in compliance with s. 215.84, and to be sold or discounted at such price or prices not less than 95 percent of par value and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district. The approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

History.—s. 2, ch. 80-407; s. 80, ch. 81-259; s. 10, ch. 83-215.

190.016 Bonds.—

(1) **SALE OF BONDS.**—Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds may be sold at public or private sale after such advertisement, if any, as the board may deem advisable but not in any event at less than 90 percent of the par value thereof, together with accrued interest thereon. Bonds may be sold or exchanged for refunding bonds. Special assessment and revenue bonds may be delivered by the district as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board in its discretion shall determine. The price or prices for any bonds sold, exchanged, or delivered may be:

- (a) The money paid for the bonds;
- (b) The principal amount, plus accrued interest to the date of redemption or exchange, or outstanding obligations exchanged for refunding bonds; and
- (c) In the case of special assessment or revenue bonds, the amount of any indebtedness to contractors or other persons paid with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board.

(2) **AUTHORIZATION AND FORM OF BONDS.**—Any general obligation bonds, benefit bonds, or revenue bonds may be authorized by resolution or resolutions of the board which shall be adopted by a majority of all the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted. The board may, by resolution, authorize the issuance of bonds and

fix the aggregate amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom shall be expended, including, but not limited to, payment of costs as defined in s. 190.003(8); the rate or rates of interest, in compliance with s. 215.84; the denomination of the bonds; whether or not the bonds are to be issued in one or more series; the date or dates of maturity, which shall not exceed 40 years from their respective dates of issuance; the medium of payment; the place or places within or without the state where payment shall be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any and all other terms, covenants, and conditions thereof and the establishment of revenue or other funds. Such authorizing resolution or resolutions may further provide for the contracts authorized by s. 159.825(1)(f) and (g) regardless of the tax treatment of such bonds being authorized, subject to the finding by the board of a net saving to the district resulting by reason thereof. Such authorizing resolution may further provide that such bonds may be executed in accordance with the Registered Public Obligations Act, except that bonds not issued in registered form shall be valid if manually countersigned by an officer designated by appropriate resolution of the board. The seal of the district may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery.

(3) INTERIM CERTIFICATES; REPLACEMENT CERTIFICATES.—Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

(4) NEGOTIABILITY OF BONDS.—Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be fully negotiable and shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(5) DEFEASANCE.—The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose and provision shall also be made for paying all other sums payable in connection with such bonds or other obligations, then and in such event the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon cease, terminate, and become void; and the board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than money held for the redemption or payment of the bonds or other obligations to any lawful purpose of the district as the board shall determine.

(6) ISSUANCE OF ADDITIONAL BONDS.—If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the board may authorize the issuance of additional bonds, upon such terms and conditions as the board may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

(7) REFUNDING BONDS.—The district shall have the power to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that at the time of such issuance are or subsequently thereto become due and payable, or that at the time of issuance have been called or are or will be subject to call for redemption within 10 years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board. Refunding bonds may be issued at any time when in the judgment of the board such issuance will be advantageous to the district. No approval of the qualified electors residing in the district shall be required for the issuance of refunding bonds except in cases in which such approval is required by the State Constitution. The board may by resolution confer upon the holders of such refunding bonds all rights, powers, and

remedies to which the holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which such refunding bonds are issued, including, but not limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment, or diminution thereof. The provisions of this act pertaining to bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board with respect to them.

(8) REVENUE BONDS.—

(a) The district shall have the power to issue revenue bonds from time to time without limitation as to amount. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district, and the approval of the qualified electors shall not be required unless such bonds are additionally secured by the full faith and credit and taxing power of the district.

(b) Any two or more projects may be combined and consolidated into a single project and may hereafter be operated and maintained as a single project. The revenue bonds authorized herein may be issued to finance any one or more of such projects, regardless of whether or not such projects have been combined and consolidated into a single project. If the board deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions, and limitations as shall have been provided in the proceeding which authorized the original bonds.

(9) GENERAL OBLIGATION BONDS.—

(a) The district shall have the power from time to time to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds shall be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution. Such elections shall be called to be held in the district by the board of county commissioners of the county upon the request of the board of the district. The expenses of calling and holding an election shall be at the expense of the district, and the district shall reimburse the county for any expenses incurred in calling or holding such election.

(b) The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitations as to rate or amount.

(c) If the board determines to issue general obligation bonds for more than one capital project, the approval of the issuance of the bonds for each and all such projects may be submitted to the electors on one and the same ballot. The failure of the electors to approve the issuance of bonds for any one or more capital projects shall not defeat the approval of bonds for any capital project which has been approved by the electors.

(d) In arriving at the amount of general obligation bonds permitted to be outstanding at any one time pursuant to paragraph (a), there shall not be included any general obligation bonds which are additionally secured by the pledge of:

1. Special assessments levied in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured, which assessments have been equalized and confirmed by resolution or ordinance of the board pursuant to s. 170.08.

2. Water revenues, sewer revenues, or water and sewer revenues of the district to be derived from user fees in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured.

3. Any combination of assessments and revenues described in subparagraphs 1. and 2.

(10) BONDS AS LEGAL INVESTMENT OR SECURITY.—

(a) Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

(b) Any bonds issued by the district shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof.

(11) COVENANTS.—Any resolution authorizing the issuance of bonds may contain such covenants as the board may deem advisable, and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues, taxes, and assessments; the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishing of competing projects or facilities; restrictions on the sale or disposal of the assets and property of the district; the priority of assessment liens; the priority of claims by bondholders on the taxing power of the district; the maintenance of deposits to assure the payment of revenues by users of district facilities and services; the discontinuance of district services by reason of delinquent payments; acceleration upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

(12) VALIDATION PROCEEDINGS.—The power of the district to issue bonds under the provisions of this act may be determined, and any of the bonds of the district maturing over a period of more than 5 years shall be validated and confirmed, by court decree, under the provisions of chapter 75 and laws amendatory thereof or supplementary thereto.

(13) ACT FURNISHES FULL AUTHORITY FOR ISSUANCE OF BONDS.—This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officers, commission, department, agency, or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to the provisions of this act shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(14) PLEDGE BY THE STATE TO THE BONDHOLDERS OF THE DISTRICT.—The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

(15) DEFAULT.—A default on the bonds or obligations of a district shall not constitute a debt or obligation of a local general-purpose government or the state.

History.—s. 2, ch. 80-407; s. 11, ch. 83-215; s. 10, ch. 84-360; s. 24, ch. 85-80; s. 6, ch. 91-308; s. 965, ch. 95-147; s. 8, ch. 98-47; s. 6, ch. 2009-142.

190.017 Trust agreements.—Any issue of bonds shall be secured by a trust agreement by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust

company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to: the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It shall be lawful for any bank or trust company within or without the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains.

History.—s. 2, ch. 80-407.

190.021 Taxes; non-ad valorem assessments.—

(1) **AD VALOREM TAXES.**—An elected board shall have the power to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, shall not exceed 3 mills, except that a district authorized by a local general-purpose government to exercise one or more powers specified in s. 190.012(2) may levy an additional 2 mills for operating purposes, exclusive of debt service on bonds. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied, and collected in the same manner and same time as county taxes. The levy of ad valorem taxes shall be approved by referendum when required by the State Constitution.

(2) **BENEFIT SPECIAL ASSESSMENTS.**—The board shall annually determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects which are levied under this act. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the property appraiser by the board not later than August 31 of each year, and such assessment shall be entered by the property appraiser on the county tax rolls, and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using the method prescribed in either s. 197.363 or s. 197.3632 for collecting and enforcing these assessments. Notice of the proposed amount of the assessment pursuant to s. 200.069 that includes the date and time of the hearing may be used in lieu of the notice provisions of s. 197.3632(4)(b). These benefit special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the assessment for the exercise of the district's powers under ss. 190.011 and 190.012 shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(3) **MAINTENANCE SPECIAL ASSESSMENTS.**—To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. This assessment may be evidenced to and certified to the property appraiser by the board of supervisors not later than August 31 of each year and shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same

manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using the method prescribed in either s. 197.363 or s. 197.3632 for collecting and enforcing these assessments. Notice of the proposed amount of the assessment pursuant to s. 200.069 that includes the date and time of the hearing may be used in lieu of the notice provisions of s. 197.3632(4)(b). These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under ss. 190.011 and 190.012 shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(4) **ENFORCEMENT OF TAXES.**—The collection and enforcement of all taxes levied by the district shall be at the same time and in like manner as county taxes, and the provisions of the Florida Statutes relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes shall be subject to the same discounts as county taxes.

(5) **WHEN UNPAID TAX IS DELINQUENT; PENALTY.**—All taxes provided for in this act shall become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

(6) **TAX EXEMPTION.**—All bonds issued hereunder and interest paid thereon and all fees, charges, and other revenues derived by the district from the projects provided by this act are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued hereunder are not exempt from the tax imposed by chapter 220. Further, districts are not exempt from the provisions of chapter 212.

(7) **TRANSITIONAL PROVISIONS.**—Nothing in this act shall be deemed to affect any benefit tax, maintenance tax, non-ad valorem assessment, ad valorem tax, or special assessment imposed by a community development district as of June 21, 1991. Nothing in this act shall be construed to affect any tax or assessment pledged to secure or authorized pursuant to a trust indenture under this chapter, and the district imposing such tax or assessment is hereby authorized to impose such tax or assessment under the terms required by the trust indenture. The terms benefit taxes or maintenance taxes used in this chapter prior to June 21, 1991, are redesignated as benefit or maintenance special assessments pursuant to this act, and such terms may be used interchangeably under the terms of an existing trust indenture.

(8) **STATUS OF ASSESSMENTS.**—Benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments as defined by s. 197.3632.

(9) **ASSESSMENTS CONSTITUTE LIENS; COLLECTION.**—Benefit special assessments and maintenance special assessments authorized by this section, and special assessments authorized by s. 190.022 and chapter 170, shall constitute a lien on the property against which assessed from the date of imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes. These non-ad valorem assessments may be collected, at the district's discretion, by the tax collector pursuant to the provisions of s. 197.363 or s. 197.3632, or in accordance with other collection measures provided by law.

(10) **LAND OWNED BY GOVERNMENTAL ENTITY.**—Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem assessments under this chapter, or chapter 170, chapter 197, or otherwise, by a board of a district on property of a governmental entity that is subject to a ground lease as described in s. 190.003(14), shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity.

History.—s. 2, ch. 80-407; s. 11, ch. 84-360; s. 48, ch. 89-169; s. 7, ch. 91-308; s. 40, ch. 99-378; s. 35, ch. 2000-364; s. 10, ch. 2007-160; s. 7, ch. 2009-142.

190.022 Special assessments.—

(1) The board may levy special assessments for the construction, reconstruction, acquisition, or maintenance of district facilities authorized under this chapter using the procedures for levy and collection provided in chapter 170 or chapter 197.

(2) Notwithstanding the provisions of s. 170.09, district assessments may be made payable in no more than 30 yearly installments.

*History.—*s. 2, ch. 80-407; s. 12, ch. 84-360; s. 8, ch. 91-308; s. 41, ch. 99-378.

190.023 Issuance of certificates of indebtedness based on assessments for assessable improvements; assessment bonds.—

(1) The board may, after any assessments for assessable improvements are made, determined, and confirmed as provided in s. 190.022, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be; and separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates, in compliance with s. 215.84, and may sell such certificates at either private or public sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be pledged for the payment of principal of and interest on any revenue bonds or general obligation bonds issued to finance in whole or in part such assessable improvement, or, if not so pledged, may be used to pay the cost or part of the cost of such assessable improvements.

(2) The district may also issue assessment bonds or other obligations payable from a special fund into which such certificates of indebtedness referred to in the preceding subsection may be deposited; or, if such certificates of indebtedness have not been issued, the district may assign to such special fund for the benefit of the holders of such assessment bonds or other obligations, or to a trustee for such bondholders, the assessment liens provided for in this act unless such certificates of indebtedness or assessment liens have been theretofore pledged for any bonds or other obligations authorized hereunder. In the event of the creation of such special fund and the issuance of such assessment bonds or other obligations, the proceeds of such certificates of indebtedness or assessment liens deposited therein shall be used only for the payment of the assessment bonds or other obligations issued as provided in this section. The district is authorized to covenant with the holders of such assessment bonds or other obligations that it will diligently and faithfully enforce and collect all the special assessments and interest and penalties thereon for which such certificates of indebtedness or assessment liens have been deposited in or assigned to such fund; to foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund; and to make any other covenants deemed necessary or advisable in order to properly secure the holders of such assessment bonds or other obligations.

(3) The assessment bonds or other obligations issued pursuant to this section shall have such dates of issue and maturity as shall be deemed advisable by the board; however, the maturities of such assessment bonds or other obligations shall not be more than 2 years after the due date of the last installment which will be payable on any of the special assessments for which such assessment liens, or the certificates of indebtedness representing such assessment liens, are assigned to or deposited in such special fund.

(4) Such assessment bonds or other obligations issued under this section shall bear such interest as the board may determine, not to exceed a rate which is in compliance with s. 215.84, and shall be executed, shall have such provisions for redemption prior to maturity, shall be sold in the manner and be subject to all of the applicable provisions contained in this act for revenue bonds, except as the same may be inconsistent with the provisions of this section.

(5) All assessment bonds or other obligations issued under the provisions of this act, except certificates of indebtedness issued against separate lots or parcels of land or property as provided in this section, shall be and constitute and shall have all the qualities and incidents of negotiable instruments under the law merchant and the laws of the state.

History.—s. 2, ch. 80-407; s. 81, ch. 81-259; s. 12, ch. 83-215.

190.024 Tax liens.—All taxes of the district provided for in this act, together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the lands against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district taxes or installments of district taxes, which lien may be enforced against such property as though no such sale thereof had been made. The provisions of ss. 194.171, 197.122, 197.333, and 197.432 shall be applicable to district taxes with the same force and effect as if such provisions were expressly set forth in this act.

History.—s. 2, ch. 80-407; s. 33, ch. 82-226; s. 202, ch. 85-342; s. 27, ch. 95-280.

190.025 Payment of taxes and redemption of tax liens by the district; sharing in proceeds of tax sale.—

(1) The district has the right to:

(a) Pay any delinquent state, county, district, municipal, or other tax or assessment upon lands located wholly or partially within the boundaries of the district; and

(b) To redeem or purchase any tax sales certificates issued or sold on account of any state, county, district, municipal, or other taxes or assessments upon lands located wholly or partially within the boundaries of the district.

(2) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes upon all the real property against which the taxes were levied. The lien of the district may be foreclosed in the manner provided in this act.

(3) In any sale of land pursuant to s. 197.542 and amendments thereto, the district may certify to the clerk of the circuit court of the county holding such sale the amount of taxes due to the district upon the lands sought to be sold; and the district shall share in the disbursement of the sales proceeds in accordance with the provisions of this act and under the laws of the state.

History.—s. 2, ch. 80-407; s. 203, ch. 85-342.

190.026 Foreclosure of liens.—Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in chapter 170 or chapter 173 and amendments thereto; the provisions of those chapters shall be applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under chapter 170 or chapter 173 may be performed by such officer or agent of the district as the board of supervisors may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however no lien shall be foreclosed against any political subdivision or agency of the state. Other legal remedies shall remain available.

History.—s. 2, ch. 80-407; s. 11, ch. 2007-160.

190.031 Mandatory use of certain district facilities and services.—To the full extent permitted by law, the district shall require all lands, buildings, premises, persons, firms, and corporations within the district to use the water management and control facilities and water and sewer facilities of the district.

History.—s. 2, ch. 80-407.

190.033 Bids required.—

(1) No contract shall be let by the board for any goods, supplies, or materials to be purchased when the amount thereof to be paid by the district shall exceed the amount provided in s. 287.017 for category four, unless notice of bids or other competitive solicitation, including requests for proposals or qualifications, is advertised once in a newspaper in general circulation in the county and in the district. Any board seeking to construct or improve a public building, structure, or other public works shall comply with the bidding procedures of s. 255.20 and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder shall be accepted unless all bids are rejected because the bids are too high, or the board determines it is in the best interests of the district to reject all bids. In each case in which requests for proposals, qualifications, or other competitive solicitations are used, the district shall determine which response is most advantageous for the district and award the contract to that proposer. The board may require the bidders or proposers to furnish bond with a responsible surety to be approved by the board. If the district does not receive a response to its competitive solicitation, the district may proceed to purchase such goods, supplies, materials, or construction services in the manner it deems in the best interests of the district. Nothing in this section shall prevent the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(2) The provisions of the Consultants' Competitive Negotiation Act, s. 287.055, apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

(3) Contracts for maintenance services for any district facility or project shall be subject to competitive solicitation requirements when the amount thereof to be paid by the district exceeds the amount provided in s. 287.017 for category four. The district shall adopt rules, policies, or procedures establishing competitive solicitation procedures for maintenance services. Contracts for other services shall not be subject to competitive solicitation unless the district adopts a rule, policy, or procedure applying competitive solicitation procedures to said contracts.

*History.—*s. 2, ch. 80-407; s. 9, ch. 91-308; s. 113, ch. 94-119; s. 42, ch. 99-378; s. 12, ch. 2007-160.

190.035 Fees, rentals, and charges; procedure for adoption and modifications; minimum revenue requirements.—

(1) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the facilities and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district facility or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

(2) No such rates, fees, rentals, or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges shall be adopted under the administrative rulemaking authority of the district, but shall not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges shall have been published in a newspaper in the county and of general circulation in the district at least once and at least 10 days prior to such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or charges as finally adopted shall be kept on file in an office designated by the board and shall be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing.

(3) Such rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the number of average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

(4) The rates, fees, rentals, or other charges prescribed shall be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

(a) To provide for all expenses of operation and maintenance of such facility or service;

(b) To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves for such purpose; and

(c) To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

(5) The board shall have the power to enter into contracts for the use of the projects of the district and with respect to the services and facilities furnished or to be furnished by the district.

History.—s. 2, ch. 80-407; s. 10, ch. 91-308.

190.036 Recovery of delinquent charges.—In the event that any rates, fees, rentals, charges, or delinquent penalties shall not be paid as and when due and shall be in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

History.—s. 2, ch. 80-407.

190.037 Discontinuance of service.—In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board shall have the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney's fees and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

History.—s. 2, ch. 80-407; s. 82, ch. 81-259.

190.041 Enforcement and penalties.—The board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to enjoin or restrain any person violating the provisions of this act or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this act. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this act or of any code, order, resolution, or other regulation made under authority conferred by this act or under law, the board or any citizen residing in the district may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or avoid such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

History.—s. 2, ch. 80-407; s. 83, ch. 81-259.

190.043 Suits against the district.—Any suit or action brought or maintained against the district for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, shall be subject to the limitations provided in s. 768.28.

History.—s. 2, ch. 80-407.

190.044 Exemption of district property from execution.—All district property shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district.

History.—s. 2, ch. 80-407.

190.046 Termination, contraction, or expansion of district.—

(1) A landowner or the board may petition to contract or expand the boundaries of a community development district in the following manner:

(a) The petition shall contain the same information required by s. 190.005(1)(a)1. and 8. In addition, if the petitioner seeks to expand the district, the petition shall describe the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan. If the petitioner seeks to contract the district, the petition shall describe what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.

(b) For those districts initially established by county ordinance, the petition for ordinance amendment shall be filed with the county commission. If the land to be included or excluded is, in whole or in part, within the boundaries of a municipality, then the county commission shall not amend the ordinance without municipal approval. A public hearing shall be held in the same manner and with the same public notice as other ordinance amendments. The county commission shall consider the record of the public hearing and the factors set forth in s. 190.005(1)(e) in making its determination to grant or deny the petition for ordinance amendment.

(c) For those districts initially established by municipal ordinance pursuant to s. 190.005(2)(e), the municipality shall assume the duties of the county commission set forth in paragraph (b); however, if any of the land to be included or excluded, in whole or in part, is outside the boundaries of the municipality, then the municipality shall not amend its ordinance without county commission approval.

(d)1. For those districts initially established by administrative rule pursuant to s. 190.005(1), the petition shall be filed with the Florida Land and Water Adjudicatory Commission.

2. Prior to filing the petition, the petitioner shall pay a filing fee of \$1,500, to the county if the district or the land to be added or deleted from the district is located within an unincorporated area or to the municipality if the district or the land to be added or deleted is located within an incorporated area, and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within or to be added to or deleted from the external boundaries of the district. The petitioner shall submit a copy of the petition to the same entities entitled to receive the filing fee. In addition, if the district is not the petitioner, the petitioner shall file the petition with the district board of supervisors.

3. Each county and each municipality shall have the option of holding a public hearing as provided by s. 190.005(1)(c). However, the public hearing shall be limited to consideration of the contents of the petition and whether the petition for amendment should be supported by the county or municipality.

4. The district board of supervisors shall, in lieu of a hearing officer, hold the local public hearing provided for by s. 190.005(1)(d). This local public hearing shall be noticed in the same manner as provided in s. 190.005(1)(d). Within 45 days of the conclusion of the hearing, the district board of supervisors shall transmit to the Florida Land and Water Adjudicatory Commission the full record of the local hearing, the transcript of the hearing, any resolutions adopted by the local general-purpose governments, and its recommendation whether to grant the petition for amendment. The commission shall then proceed in accordance with s. 190.005(1)(e).

5. A rule amending a district boundary shall describe the land to be added or deleted.

(e)1. During the existence of a district initially established by administrative rule, the process to amend the boundaries of the district pursuant to paragraphs (a)-(d) shall not permit a cumulative net total greater than 50 percent of the land in the initial district, and in no event greater than 1,000 acres on a cumulative net basis.

2. During the existence of a district initially established by county or municipal ordinance, the process to amend the boundaries of the district pursuant to paragraphs (a)-(d) shall not permit a cumulative net total greater than 50 percent of the land in the initial district, and in no event greater than 1,000 acres on a cumulative net basis.

(f) Petitions to amend the boundaries of the district that exceed the amount of land specified in paragraph (e) shall be processed in accordance with s. 190.005, and the petition shall include only the elements set forth in s. 190.005(1)(a)1. and 5.-8. and the consent required by paragraph (g). However, the resulting administrative rule or ordinance may only amend the boundaries of the district and may not establish a new district or cause a new 6-year or 10-year period to begin pursuant to s. 190.006(3)(a)2. The filing fee for such petitions shall be as set forth in s. 190.005(1)(b), as applicable.

(g) In all cases of a petition to amend the boundaries of a district, the filing of the petition by the district board of supervisors constitutes consent of the landowners within the district. In all cases, written consent of those landowners whose land is to be added to or deleted from the district as provided in s. 190.005(1)(a)2. is required.

(h) For a petition to establish a new community development district of less than 2,500 acres on land located solely in one county or one municipality, sufficiently contiguous lands located within the county or municipality which the petitioner anticipates adding to the boundaries of the district within 10 years after the effective date of the ordinance establishing the district may also be identified. If such sufficiently contiguous land is identified, the petition must include a legal description of each additional parcel within the sufficiently contiguous land, the current owner of the parcel, the acreage of the parcel, and the current land use designation of the parcel. At least 14 days before the hearing required under s. 190.005(2)(b), the petitioner must give the current owner of each such parcel notice of filing the petition to establish the district, the date and time of the public hearing on the petition, and the name and address of the petitioner. A parcel may not be included in the district without the written consent of the owner of the parcel.

1. After establishment of the district, a person may petition the county or municipality to amend the boundaries of the district to include a previously identified parcel that was a proposed addition to the district before its establishment. A filing fee may not be charged for this petition. Each such petition must include:

- a. A legal description by metes and bounds of the parcel to be added;
- b. A new legal description by metes and bounds of the district;
- c. Written consent of all owners of the parcel to be added;
- d. A map of the district including the parcel to be added;
- e. A description of the development proposed on the additional parcel; and
- f. A copy of the original petition identifying the parcel to be added.

2. Before filing with the county or municipality, the person must provide the petition to the district and to the owner of the proposed additional parcel, if the owner is not the petitioner.

3. Once the petition is determined sufficient and complete, the county or municipality must process the addition of the parcel to the district as an amendment to the ordinance that establishes the district. The county or municipality may process all petitions to amend the ordinance for parcels identified in the original petition, even if, by adding such parcels, the district exceeds 2,500 acres.

4. The petitioner shall cause to be published in a newspaper qualified to publish legal notices in the proposed district a notice of the intent to amend the ordinance that establishes the district. The notice must be in addition to any notice required for adoption of the ordinance amendment. Such notice must be published as provided in chapter 50 at least 10 days before the scheduled hearing on the ordinance amendment. The notice must include a general description of the land to be added to the district and the date and time of the scheduled hearing to amend the ordinance. The petitioner shall deliver, including by mail or hand delivery, the notice of the hearing on the ordinance amendment to the owner of the parcel and to the district at least 14 days before the scheduled hearing.

5. The amendment of a district by the addition of a parcel pursuant to this paragraph does not alter the transition from landowner voting to qualified elector voting pursuant to s. 190.006, even if the total size of the district after the addition of the parcel exceeds 5,000 acres. Upon adoption of the ordinance expanding the district, the petitioner must cause to be recorded a notice of boundary amendment which reflects the new boundaries of the district.

6. This paragraph is intended to facilitate the orderly addition of lands to a district under certain circumstances and does not preclude the addition of lands to any district using the procedures in the other provisions of this section.

(2) The district shall remain in existence unless:

(a) The district is merged with another district as provided in subsection (3) or subsection (4);

(b) All of the specific community development systems, facilities, and services that it is authorized to perform have been transferred to a general-purpose unit of local government in the manner provided in subsections (5), (6), and (7); or

(c) The district is dissolved as provided in subsection (8), subsection (9), or subsection (10).

(3) The district may merge with other community development districts upon filing a petition for merger, which petition shall include the elements set forth in s. 190.005(1) and which shall be evaluated using the criteria set forth in s. 190.005(1)(e). The filing fee shall be as set forth in s. 190.005(1)(b). In addition, the petition shall state whether a new district is to be established or whether one district shall be the surviving district. A community development district may also merge with another type of special district created by special act pursuant to the terms of that special act or by filing a petition for establishment of a new district pursuant to s. 190.005. The government formed by a merger involving a community development district pursuant to this section shall assume all indebtedness of, and receive title to, all property owned by the preexisting special districts, and the rights of creditors and liens upon property are not impaired by such merger. Any claim existing or action or proceeding pending by or against any district that is a party to the merger may be continued as if the merger had not occurred, or the surviving district may be substituted in the proceeding for the district that ceased to exist. Prior to filing a petition, the districts desiring to merge shall enter into a merger agreement and shall provide for the proper allocation of the indebtedness so assumed and the manner in which such debt shall be retired. The approval of the merger agreement and the petition by the board of supervisors of the district shall constitute consent of the landowners within the district. A community development district merging with another type of district may also enter into a merger agreement to address issues of transition, including the allocation of indebtedness and retirement of debt.

(4)(a) To achieve economies of scale, reduce costs to affected district residents and businesses in areas with multiple existing districts, and encourage the merger of multiple districts, up to five districts that were established by the same local general-purpose government and whose board memberships are composed entirely of qualified electors may merge into one surviving district through adoption of an ordinance by the local general-purpose government, notwithstanding the acreage limitations otherwise set forth for the establishment of a district in this chapter. The filing of a petition by the majority of the members of each district board of supervisors seeking to merge constitutes consent of the landowners within each applicable district.

(b) In addition to meeting the requirements of subsection (3), a merger agreement entered into between the district boards subject to this subsection must also:

1. Require the surviving merged district board to consist of five elected board members.

2. Require each at-large board seat to represent the entire geographic area of the surviving merged district.

3. Ensure that each district to be merged is entitled to elect at least one board member from its former boundary.

4. Ensure a fair allocation of board membership to represent the districts being merged. To that end:

a. If two districts merge, two board members shall be elected from each of the districts and one member shall be elected at-large.

b. If three districts merge, one board member shall be elected from each of the three districts and two board members shall be elected at-large.

c. If four districts merge, one board member shall be elected from each of the four districts and one board member shall be elected at-large.

d. If five districts merge, one board member shall be elected from each of the five districts.

5. Require the election of board members for the surviving merged district to be held at the next general election following the merger, at which time all terms of preexisting board members shall end and the merger shall be legally in effect.

(c) Before filing the merger petition with the local general-purpose government under this subsection, each district proposing to merge must hold a public hearing within its district to provide information about and take public comment on the proposed merger, merger agreement, and assignment of board seats. Notice of the hearing shall be published at least 14 days before the hearing. If, after the public hearing, a district board decides that it no longer wants to merge and cancels the proposed merger agreement, the remaining districts must each hold another public hearing on the revised merger agreement. A petition to merge may not be filed for at least 30 days after the last public hearing held by the districts proposing to merge.

(5) The local general-purpose government within the geographical boundaries of which the district lies may adopt a nonemergency ordinance providing for a plan for the transfer of a specific community development service from a district to the local general-purpose government. The plan must provide for the assumption and guarantee of the district debt that is related to the service by the local general-purpose government and must demonstrate the ability of the local general-purpose government to provide such service:

(a) As efficiently as the district.

(b) At a level of quality equal to or higher than the level of quality actually delivered by the district to the users of the service.

(c) At a charge equal to or lower than the actual charge by the district to the users of the service.

(6) No later than 30 days following the adoption of a transfer plan ordinance, the board of supervisors may file, in the circuit court for the county in which the local general-purpose government that adopted the ordinance is located, a petition seeking review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance.

(7) Upon the transfer of all of the community development services of the district to a general-purpose unit of local government, the district shall be terminated in accordance with a plan of termination which shall be adopted by the board of supervisors and filed with the clerk of the circuit court.

(8) If, within 5 years after the effective date of the rule or ordinance establishing the district, a landowner has not received a development permit, as defined in chapter 380, on some part or all of the area covered by the district, then the district will be automatically dissolved and a judge of the circuit court shall cause a statement to that effect to be filed in the public records.

(9) In the event the district has become inactive pursuant to s. 189.062, the respective board of county commissioners or city commission shall be informed and it shall take appropriate action.

(10) If a district has no outstanding financial obligations and no operating or maintenance responsibilities, upon the petition of the district, the district may be dissolved by a nonemergency ordinance of the general-purpose local governmental entity that established the district or, if the district was established by rule of the Florida Land and Water Adjudicatory Commission, the district may be dissolved by repeal of such rule of the commission.

History.—s. 2, ch. 80-407; ss. 13, 19, ch. 84-360; s. 49, ch. 89-169; s. 11, ch. 91-308; s. 43, ch. 99-378; s. 34, ch. 2004-345; s. 31, ch. 2004-353; s. 10, ch. 2009-142; s. 22, ch. 2013-15; s. 70, ch. 2014-22; s. 3, ch. 2016-94; s. 4, ch. 2017-3; s. 1, ch. 2019-164; s. 18, ch. 2021-17.

190.047 Incorporation or annexation of district.—

(1) Upon attaining the population standards for incorporation contained in s. 165.061 and as determined by the Department of Economic Opportunity, any district wholly contained within the unincorporated area of a county that also meets the other requirements for incorporation contained in s. 165.061 shall hold a referendum at a general election on the question of whether to incorporate. However, any district contiguous to the boundary of a municipality may be annexed to such municipality pursuant to the provisions of chapter 171.

(2) The Department of Economic Opportunity shall annually monitor the status of the district for purposes of carrying out the provisions of this section.

History.—s. 14, ch. 84-360; s. 13, ch. 2007-160; s. 71, ch. 2011-142.

190.048 Sale of real estate within a district; required disclosure to purchaser.—Subsequent to the establishment of a district under this chapter, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: “THE (Name of District) COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.”

History.—s. 15, ch. 84-360; s. 3, ch. 90-46; s. 44, ch. 99-378.

190.0485 Notice of establishment.—Within 30 days after the effective date of a rule or ordinance establishing a community development district under this act, the district shall cause to be recorded in the property records in the county in which it is located a “Notice of Establishment of the Community Development District.” The notice shall, at a minimum, include the legal description of the district and a copy of the disclosure statement specified in s. 190.048.

History.—s. 45, ch. 99-378.

190.049 Special acts prohibited.—Pursuant to s. 11(a)(21), Art. III of the State Constitution, there shall be no special law or general law of local application creating an independent special district which has the powers enumerated in two or more of the paragraphs contained in s. 190.012, unless such district is created pursuant to the provisions of s. 189.031.

History.—s. 2, ch. 80-407; s. 16, ch. 84-360; s. 47, ch. 99-378; s. 71, ch. 2014-22.

SECTION C

SECTION 1

RESOLUTION 2024-01

A RESOLUTION ELECTING THE OFFICERS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT, CITY OF DELAND, FLORIDA.

WHEREAS, the Kepler Road Community Development District (the “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 (“Board”) desires to elect the Officers of the District.

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

SECTION 1. The following persons are elected to the offices shown:

- Chairperson _____
- Vice Chairperson _____
- Secretary _____
- Assistant Secretary _____
- Assistant Secretary _____
- Assistant Secretary _____
- Assistant Secretary _____
- Assistant Secretary _____
- Treasurer _____
- Assistant Treasurer _____
- Assistant Treasurer _____

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION III

SECTION A

SECTION 1

RESOLUTION 2024-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT APPOINTING AND FIXING THE COMPENSATION OF THE DISTRICT MANAGER; APPOINTING A FINANCIAL DISCLOSURE COORDINATOR; APPOINTING AN ASSESSMENT CONSULTANT IN CONTEMPLATION OF THE ISSUANCE OF SPECIAL ASSESSMENT BONDS; APPOINTING A DESIGNATED INVESTMENT REPRESENTATIVE TO ADMINISTER INVESTMENT DIRECTION WITH REGARD TO DISTRICT FUNDS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, pursuant to Section 190.007(1), *Florida Statutes*, the Board of Supervisors of the District (the “Board”) desires to employ and fix compensation of a District Manager; and

WHEREAS, the Board desires to appoint a Financial Disclosure Coordinator to 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, the Board of Supervisors and other persons required by Florida law to file a statement of financial interest due to his or her affiliation with the District; and

WHEREAS, the Board desires to appoint an Assessment Consultant to advise regarding the proposed issuance of special assessment bonds and other financing methods for District improvements; and

WHEREAS, the Board desires to appoint an Investment Representative to direct and advise on the investment of District funds including, but not limited to, directing the assigned Trustee; to invest District funds consistent with any and all Indentures and to maximize return; and

WHEREAS, the Board has determined that the appointment of a Financial Disclosure Coordinator, Assessment Consultant, and Investment Representative is necessary; and

WHEREAS, the Board desires to appoint a District Manager, Financial Disclosure Coordinator, Assessment Consultant, and Investment Representative, and to provide compensation for their services.

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

SECTION 1. Governmental Management Services – Central Florida, LLC, is appointed

as District Manager, Financial Disclosure Coordinator, Assessment Consultant, and Designated Investment Representative and shall be compensated for their services in such capacity in the manner prescribed in the agreement incorporated herein by reference as **Exhibit A**.

SECTION 2. This authorization shall be continuing in nature until revoked by the District.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A: District Manager Fee Agreement

Exhibit A
District Manager Fee Agreement

**AGREEMENT FOR DISTRICT MANAGEMENT SERVICES BETWEEN
KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT AND
GOVERNMENTAL MANAGEMENT SERVICES - CENTRAL FLORIDA,
LLC**

Date of Agreement: 11th day of December 2023.

Between: Governmental Management Services – Central Florida, LLC
219 E. Livingston Street
Orlando, Florida 32801

(Hereinafter referred to as “Manager”);

And: Kepler Road Community Development District
A unit of special purpose local government located in the City of
Deland, Volusia County Florida

(Hereinafter referred to as “District”).

**GENERAL MANAGEMENT, ADMINISTRATIVE, AND ACCOUNTING
SERVICES**

This engagement is for the Manager to provide District Management Services for the District. The duties and responsibilities include, but are not limited to the following:

Meetings, Hearings, Workshops, Etc.

- The Manager will organize, conduct, and provide minutes for all meetings of the District. This includes, but is not limited to, scheduling meetings, providing agenda packages and meeting materials in the form requested by the District Board of Supervisors, and publishing Board meeting, public hearing notices, and landowner election notices pursuant to Florida law.
- The Manager will consult with the District Board of Supervisors and its designated representatives, and when necessary, organize such meetings, discussions, project site visits, workshops, and hearings as may pertain to the administration and accomplishment of the various projects and services provided by the District.

Records

- The Manager will maintain “Record of Proceedings” for the District within the boundaries of the local government in which the District is located and include meeting minutes, agreements, resolutions and other records required by law or contract and provide access to such records as necessary for proper District function or compliance with Florida’s public records laws.

District Operations

- The Manager will act as the primary point of contact for District-related matters.
- The Manager will consult with and advise the District on matters related to the operation and maintenance of the District’s public infrastructure.
- The Manager will make recommendations and assist in matters relating to solicitation, approval, rejection, amendment, renewal, and cancellation of contracts for services to the District. In advance of expiration of contracts, the Manager will advise the Board as to need for renewal or additional procurement activities and implement same.
- On or before October 1st of every year, the Manager will prepare an annual inventory of all District owned tangible personal property and equipment in accordance with all applicable rules and standards.
- The Manager will recommend and advise the Board, in consultation with the District Engineer of the appropriate amount and type of insurance and be responsible for procuring all necessary insurance.
- The Manager will ensure compliance with all statutes affecting the District by performing the following tasks (and such other tasks required by law but not specifically identified herein):
 - File name and location of the Registered Agent and Office location annually with Department of Community Affairs and the County.
 - Provide legal description and boundary map as provided by District Engineer to the Supervisor of Elections
 - Provide the regular meeting schedule of the Board to County.
 - File all required financial reports to the Department of Revenue, Auditor General, the County, and other governmental agencies with jurisdiction in compliance with Florida law.

- File request letter to the Supervisor of Election of the County for number of registered voters as of April 15, each year. Report annually the number of registered voters in the District by June 1, of each year.
- Transmit Public Facilities Report and related updates to appropriate agencies.
- Prepare and file annual public depositor report.

Accounting and Reporting

- The Manager will implement an integrated management reporting system compliant with Generally Accepted Accounting Principles (GAAP) for government and fund accounting which will allow the District to represent fairly and with full disclosure the financial position of the District. The District's accounting activities will be overseen by a degreed accountant.
- The Manager will prepare reports as appropriate under applicable law, accounting standards, and bond trust indenture requirements. The Manager will track the District's general fund and bond fund activities and provide monthly and annual financial statements (including budget to actual summary).
- The Manager will administer the processing, review and approval, and timely payment of all invoices and purchase orders.
- The Manager will oversee District's capital and general fund accounts.
- The Manager will recommend and implement investment policies and procedures pursuant to State law, and provide Cash Management services to obtain maximum earnings for District operations through investment of surplus funds to the State Board of Administration.

Audits

- The Manager will provide audit support to auditors for the required Annual Audit, and will ensure completion and submission of audit and Annual Financial Statements to the County, Auditor General, and other appropriate government entities in compliance with Florida law.

Budgeting

- The Manager will prepare and provide for a proposed budget for Board approval and submission to County in compliance with state law. The Manager will prepare final budget and backup material for and present the budget at all budget meetings, hearings and workshops. The Manager will ensure that all budget meetings, hearings, and workshops are properly noticed.

- The Manager will administer the adopted budget and prepare budget amendments on an ongoing basis as necessary.

Capital Program Administration

- The Manager will maintain proper capital fund and project fund accounting procedures and records.
- The Manager will coordinate with District staff to provide for appropriate bid and or proposal/qualification processes for Capital Project Construction.
- The Manager will oversee and implement bond issue related compliance, i.e., coordination of annual arbitrage report, transmittal of annual audit and budget to the trustee, transmittal of annual audit to bond holders and underwriters, annual/quarterly disclosure reporting, etc.

Maintenance Contract Administration

- Upon direction by the District's Board of Supervisors and upon mutual agreement of the parties hereto, Manager will provide Maintenance Contract Administration for District in general accordance with the fees outlined in Exhibit A. The parties further understand and recognize that the scope and number of contracts to be administered under said fee may be limited and/or multiple fees may be required. Any Maintenance Contract Administration shall be by separate agreement between the parties.

FINANCIAL SERVICES

Assessments & Revenue Collection

- The Manager will develop and administer the annual assessment roll for the District. This includes administering the tax roll for the District for assessments collected by the County and administering assessments for Off Tax Roll parcels/lots.
- The Manager will provide payoff information and pre-payment amounts as requested by property owners, and collect prepayment of assessments as necessary.
- The Manager will monitor development of the District and perform Assessment True-up Analysis when appropriate.
- The Manager will issue estoppel letters as needed for property transfers.

- The Manager will maintain the District's Lien Book, in which is recorded the details of any District debt and the related debt service assessments. The Lien Book will account for all District debt and show the allocation of debt principal to assessed properties within the District.

FEES AND TERM OF SERVICES

All services will be completed on a timely basis in accordance with the District needs and statutory requirements.

The District agrees to compensate the Manager in accordance with the fee schedule set forth in the attached Exhibit A. Payment shall be made in equal monthly installments at the beginning of each month, and may be amended annually as evidenced by the budget approved by the Board.

This Agreement shall automatically renew each Fiscal Year of the District, unless otherwise terminated by either party. The District will consider price adjustments each twelve (12) month period to compensate for market conditions and the planned workload of the District to be performed during the next twelve (12) month period. Evidence of price or fee adjustments will be approved by the Board in its adopted or amended Fiscal Year Budget.

DISTRICT RESPONSIBILITIES

The District shall provide for the timely services of its legal counsel, engineer and any other consultants, contractors or employees, as required, for the Manager to perform the duties outlined in this Contract. Expenses incurred in providing this support shall be the sole responsibility of the District.

TERMINATION OF THIS CONTRACT

This Contract may be terminated as follows:

1. By the District for "good cause," which shall include misfeasance, malfeasance, nonfeasance or dereliction of duties by the Manager which termination may be immediate; or
2. By the Manager or District, for any reason, upon 60 days written notice.

In the event this Contract is terminated in either manner above stated, the Manager will make all reasonable effort to provide for an orderly transfer of the books and records of the District to the District or its designee.

GENERAL TERMS AND CONDITIONS

1. All invoices are due and payable when received.
2. This Contract shall be interpreted in accordance with and shall be governed by the laws of the State of Florida.
3. In the event that any provision of this contract shall be determined to be unenforceable or invalid by a court such unenforceability or invalidity shall not affect the remaining provisions of the Contract which shall remain in full force and effect.
4. The rights and obligations of the District as defined by this Contract shall inure to the benefit of and shall be binding upon the successors and assigns of the District. There shall be no assignment of this Contract by the Manager, without the approval of the District.
5. The District acknowledges that the Manager is not a Municipal Advisor or Securities Broker, nor is the Manager registered to provide such services as described in Section 15B of the Securities and Exchange Act of 1934, as amended. Similarly, the District acknowledges that the Manager does not provide the District with financial advisory services or offer investment advice.
6. To the extent allowable under applicable law (and only to the extent of the limitations of liability set forth in Section 768.28, Florida Statutes), except to the extent caused by the negligence, reckless, and/or willful misconduct of the Manager, the District agrees to indemnify, defend, and hold harmless the Manager and its officers, supervisors, staff, and employees from and against any and all liability, claims, actions, suits, demands, assessments or judgments asserted and any and all losses, liabilities, damages, costs, court costs, and expenses, including attorney's fees, that Manager may hereafter incur, become responsible for, or be caused to pay out arising out of or relating to the grossly negligent or intentionally wrongful acts or omissions of the District. The indemnification provided for herein shall not be deemed exclusive of any other rights to which the Manager may be entitled and shall continue after the Manager has ceased to be engaged under this Contract.

The Manager agrees to indemnify, defend, and hold harmless the District and its officers, supervisors, staff, and employees from and against any and all liability, claims, actions, suits, demands, assessments or judgments asserted and any and all losses, liabilities, damages, costs, court costs, and expenses, including attorney's fees, that the Manager may hereafter incur, become responsible for, or be caused to pay out arising out of or relating to the failure to perform under this Contract or at law, or grossly negligent, reckless, and/or intentionally wrongful

acts or omissions of the Manager. The indemnification provided for herein shall not be deemed exclusive of any other rights to which the District may be entitled and shall continue after the Manager has ceased to be engaged under this Contract.

7. Nothing herein shall be construed as a waiver of the District's sovereign immunity or any waiver of the limitations of liability as provided in Section 768.28 Florida Statutes, or other applicable law. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.
8. Any amendment or change to this Contract shall be in writing and executed by all parties.
9. The Manager, on behalf of itself and its subcontractors, hereby warrants compliance with all federal immigration laws and regulations applicable to their employees. The Manager further agrees that the District is a public employer subject to the E-Verify requirements provided in Section 448.095, Florida Statutes, and such provisions of said statute are applicable to this Agreement, including, but not limited to registration with and use of the E-Verify system. The Manager agrees to utilize the E-Verify system to verify work authorization status of all newly hired employees. The Manager shall provide sufficient evidence that it is registered with the E-Verify system before commencement of performance under this Agreement. If the District has a good faith belief that the Manager is in violation of Section 448.09(1), Florida Statutes, or has knowingly hired, recruited, or referred an alien that is not duly authorized to work by the federal immigration laws or the Attorney General of the United States for employment under this Agreement, the District shall terminate this Agreement. The Manager shall require an affidavit from each subcontractor providing that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Manager shall retain a copy of each such affidavit for the term of this Agreement and all renewals thereof. If the District has a good faith belief that a subcontractor of the Manager performing work under this Agreement is in violation of Section 448.09(1), Florida Statutes, or has knowingly hired, recruited, or referred an alien that is not duly authorized to work by the federal immigration laws or the Attorney General of the United States for employment under this Agreement, the District promptly notify the Manager and order the Manager to immediately terminate its subcontract with the subcontractor. The Manager shall be liable for any additional costs incurred by the District as a result of the termination of any contract, including this Agreement, based on Manager's failure to comply with the E-Verify requirements referenced in this subsection.

10. Manager shall, pursuant to and in accordance with Section 119.0701, Florida Statutes, comply with the public records laws of the State of Florida. Failure of the Manager to comply with Section 119.0701, Florida Statutes, may subject the Manager to penalties pursuant to Section 119.10, Florida Statutes. In the event Manager fails to comply with this section or Section 119.0701, Florida Statutes, the District shall be entitled to all remedies at law or in equity. The following statement is required to be included in this Agreement pursuant to Section 119.0701(2), Florida Statutes:

IF THE MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE MANAGER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT/CONTRACT, THE MANAGER MAY CONTACT THE MANAGER CUSTODIAN OF PUBLIC RECORDS FOR THE DISTRICT AT:

GOVERNMENTAL MANAGEMENT SERVICES-
CENTRAL FLORIDA, LLC
219 EAST LIVINGSTON STREET
ORLANDO, FLORIDA 32801
TELEPHONE: (407) 841-5524
EMAIL: GFLINT@GMSCFL.COM

NOTICES

All notices required in this Agreement shall be sent by certified mail, return receipt requested, or express mail with proof of receipt. If sent to the District, notice shall be to:

Kepler Road Community Development District
219 E. Livingston Street
Orlando, Florida 32801
Attn: Chairman

With a copy to:

Kutak Rock, LLP
P.O. box 10230
Tallahassee, FL 32302

If notice is sent to Manager, it shall be sent to:

Governmental Management Services – Central Florida, LLC
219 E. Livingston Street
Orlando, Florida 32801
Attn: George S. Flint

This Contract shall represent the entire agreement between the Manager and the District. Both Manager and District understand and agree with the terms and conditions as set forth herein.

Approved by:

Board of Supervisors
Kepler Road
Community Development District

Secretary/ Assistant Secretary

By: _____
Chairman

Governmental Management Services
- Central Florida, LLC

Witness

George S. Flint, Vice-President

**EXHIBIT A
DISTRICT MANAGEMENT FEE SCHEDULE
DECEMBER 2023**

Management, Administrative, and Accounting Services

- Annual Fee paid in equal monthly payments (plus reimbursables) \$ 40,000*

Annual Assessment Administration \$ 5,000
(Beginning with the first assessment to individual unit owners, direct assessment or utilizing tax collector)

Information Technology and Website Maintenance \$ 3,000

Other Services**

- Maintenance Contract Administration Negotiated
- Pre-paid Assessment Collection Fee \$ 100 (per lot/unit)
- Bond Issuance Cost \$ 15,000 (per bond issue)
- Annual Dissemination Agent Fee \$ 5,000 (first bond issue)
(\$1,000 for each addtl series)
- SERC Preparation & Assistance w/ Petition \$ 2,500
- Assessment Methodology Preparation \$ 20,000

*Fee will be discounted 50% until the first bond issue is closed.

**Costs for other services shall be by separate agreement or work authorization and may be adjusted based upon the scope of services provided.

SECTION B

SECTION 1

RESOLUTION 2024-03

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT APPOINTING LEGAL COUNSEL FOR THE DISTRICT, AUTHORIZING ITS COMPENSATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, pursuant to Section 190.011, *Florida Statutes*, the District’s Board of Supervisors (the “Board”) may contract for the services of consultants to perform planning, engineering, legal or other appropriate services of a professional nature; and

WHEREAS, the Board desires to appoint a District Counsel and to provide compensation for their services.

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

SECTION 1. Kutak Rock LLP, is appointed as District Counsel and shall be compensated for their services in such capacity in the manner prescribed in **Exhibit A**.

SECTION 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A: Attorney Retainer Agreement

Exhibit A
Attorney Retainer Agreement

RETENTION AND FEE AGREEMENT

I. PARTIES

THIS RETENTION AND FEE AGREEMENT (“**Agreement**”) is made and entered into by and between the following parties:

A. Kepler Road CDD (“**Client**”)
c/o Governmental Management Services
219 East Livingston Street
Orlando, Florida 32801

and

B. Kutak Rock LLP (“**Kutak Rock**”)
107 West College Avenue
Tallahassee, FL 32301

II. SCOPE OF SERVICES

In consideration of the mutual undertakings and agreements contained herein, the parties agree as follows:

- A. The Client agrees to employ and retain Kutak Rock as its attorney and legal representative to provide advice and counsel regarding the structuring and establishment of a Community Development District in the City of Deland, Florida.
- B. Kutak Rock accepts such employment and agrees to serve as attorney for and provide legal representation to the Client in connection with those matters referenced above. No other legal representation is contemplated by this Agreement. Any additional legal services to be provided under the terms of this Agreement shall be agreed to by Client and Kutak Rock in writing.

III. CLIENT FILES

The files and work product materials (“**Client File**”) of the Client generated or received by Kutak Rock will be maintained confidentially to the extent permitted by law and in accordance with the Florida Bar rules. At the conclusion of the representation, the Client File will be stored by Kutak Rock for a minimum of five (5) years. After the five (5) year storage period, the Client hereby acknowledges and consents that Kutak Rock may confidentially destroy or shred the Client File. Notwithstanding the prior sentence, if the Client provides Kutak Rock with a written request for the return of the Client File before the end of the five (5) year storage period, then Kutak Rock will return the Client File to Client at Client’s expense.

IV. FEES

- A. The Client agrees to compensate Kutak Rock for services rendered in connection with any matters covered by this Agreement on an hourly rate basis plus actual expenses incurred by Kutak Rock in accordance with the attached Expense Reimbursement Policy (Attachment A, incorporated herein by reference). Time will be billed in increments of one-tenth (1/10) of an hour. Kutak Rock anticipates staffing the work primarily through the services of Sarah S. Sandy and Michelle K. Rigoni.
- B. Attorneys and staff, if applicable, who perform work for Client will be billed at their regular hourly rates, as may be adjusted from time to time. The regular hourly rates of those initially expected to handle the bulk of Client’s work are as follows:

Sarah R. Sandy	\$300
Michelle K. Rigoni	\$275
Associates	\$265
Paralegals	\$170

Kutak Rock’s regular hourly billing rates are reevaluated annually and are subject to change not more than once in a calendar year. Client agrees to Kutak Rock’s annual rate increases to the extent hourly rates are not increased beyond \$15/hour per year.

- C. To the extent practicable and consistent with the requirements of sound legal representation, Kutak Rock will attempt to reduce Client’s bills by assigning each task to the person best able to perform it at the lowest rate, so long as he or she has the requisite knowledge and experience.
- D. Upon consent of Client, Kutak Rock may subcontract for legal services in the event that Client requires legal services for which Kutak Rock does not have adequate capabilities.
- E. Kutak Rock will include costs and expenses (including interest charges on past due statements) on its billing statements for Client reimbursement in accordance with the attached Expense Reimbursement Policy.

V. BILLING AND PAYMENT

The Client agrees to pay Kutak Rock’s monthly billings for fees and expenses incurred within thirty (30) days following receipt of an invoice, or the time permitted by Florida law, whichever is greater. Kutak Rock shall not be obligated to perform further legal services under this Agreement if any such billing statement remains unpaid longer than thirty (30) days after submittal to and receipt by Client. Non-payment of billing statements shall be a basis for Kutak Rock to immediately withdraw from the representation without regard to remaining actions necessitating attention by Kutak Rock as part of the representation.

VI. DEFAULT; VENUE

In any legal proceeding to collect outstanding balances due under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to costs and outstanding balances due under this Agreement. Venue of any such action shall be exclusive in the state courts of the Second Judicial Circuit in and for Leon County, Florida.

VII. CONFLICTS

It is important to disclose that Kutak Rock represents a number of special districts, trustees ("Trustees"), bondholders, developers, builders, and other entities throughout Florida and the United States of America relating to community development districts, special districts, local governments and land development. Kutak Rock or its attorneys may also have represented the entity which petitioned for the formation of the Client. Kutak Rock understands that Client may enter into an agreement with a Trustee in connection with the issuance of bonds, and that Client may request that Kutak Rock simultaneously represent Client in connection with the issuance of bonds, while Kutak Rock is also representing such Trustee on unrelated matters. By accepting this Agreement Client agrees that (1) Client was provided with an explanation of the implications of the common representation(s) and the advantages and risks involved; (2) Kutak Rock will be able to provide competent and diligent representation of Client, regardless of Kutak Rock's other representations, and (3) there is not a substantial risk that Kutak Rock's representation of Client would be materially limited by Kutak Rock's responsibilities to another client, a former client or a third person or by a personal interest. Acceptance of this Agreement will constitute Client's waiver of any "conflict" with Kutak Rock's representation of various special districts, Trustees, bondholders, developers, builders, and other entities relating to community development districts, special districts, local governments and land development.

VIII. ACKNOWLEDGMENT

Client acknowledges that the Kutak Rock cannot make any promises to Client as to the outcome of any legal dispute or guarantee that Client will prevail in any legal dispute.

IX. TERMINATION

Either party may terminate this Agreement upon providing prior written notice to the other party at its regular place of business. All fees due and payable in accordance with this Agreement shall accrue and become payable pursuant to the terms of this Agreement through the date of termination.

X. EXECUTION OF AGREEMENT

This Agreement shall be deemed fully executed upon its signing by Kutak Rock and the Client. The contract formed between Kutak Rock and the Client shall be the operational contract between the parties.

XI. ENTIRE CONTRACT

This Agreement constitutes the entire agreement between the parties.

Accepted and Agreed to:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

KUTAK ROCK LLP

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

ATTACHMENT A

KUTAK ROCK LLP CDD EXPENSE REIMBURSEMENT POLICY

The following is Kutak Rock's expense reimbursement policy for community development district representation. This policy applies unless a different arrangement has been negotiated based on the unique circumstances of a particular client or matter.

All expenses are billed monthly. Billings ordinarily reflect expenses for the most recent month, except where there are delays in receiving bills from third party vendors.

Photocopying and Printing. In-house photocopying and printing are charged at \$0.25 per page (black & white) and \$0.50 per page (color). Outside copying is billed as a pass-through of the outside vendor's charges.

Postage. Postage is billed at actual cost.

Overnight Delivery. Overnight delivery is billed at actual cost.

Local Messenger Service. Local messenger service is billed at 65.5 cents per mile pursuant to the standard mileage rate for business travel established by the Internal Revenue Service (IRS). Should the IRS increase the mileage allowance, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate.

Computerized Legal Research. Charges for computerized legal research are billed at an amount approximating actual cost.

Travel. Travel (including air fare, rental cars, taxicabs, hotel, meals, tips, etc.) is billed at actual cost. Where air travel is required, coach class is used wherever feasible. Out-of-town mileage is billed at 65.5 cents per mile pursuant to the standard mileage rate for business travel established by the Internal Revenue Service (IRS). Should the IRS increase the mileage allowance, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate. Reasonable travel-related expenses for meals, lodging, gratuities, taxi fares, tolls, and parking fees shall also be reimbursed.

Consultants. Unless prior arrangements are made, consultants are ordinarily employed directly by the client. Where consulting or testifying experts are employed by the firm, their charges are passed through with no mark-up. The client is responsible for notifying the firm of any particular billing arrangements or procedures which the client requires of the consulting or testifying experts.

Other Expenses. Other outside expenses, such as court reporters, agency copies, conference calls, etc. are billed at actual cost.

SECTION C

SECTION 1

RESOLUTION 2024-04

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT APPOINTING AND FIXING THE COMPENSATION OF THE INTERIM DISTRICT ENGINEER AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, pursuant to Section 190.011, *Florida Statutes*, the District’s Board of Supervisors (the “Board”) may contract for the services of consultants to perform planning, engineering, legal or other appropriate services of a professional nature; and

WHEREAS, the Board desires to appoint an Interim District Engineer and to provide compensation for their services.

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

SECTION 1. Kelly, Collins, & Gentry Inc., is appointed as Interim District Engineer and shall be compensated for their services in such capacity in the manner prescribed in the agreement incorporated herein by reference as **Exhibit A**.

SECTION 2. This authorization shall be continuing in nature until revoked by the District.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A: Interim District Engineer Fee Agreement

**AGREEMENT BETWEEN THE KEPLER ROAD COMMUNITY DEVELOPMENT
DISTRICT AND KELLY, COLLINS & GENTRY, INC., FOR INTERIM
PROFESSIONAL ENGINEERING SERVICES**

THIS AGREEMENT (“Agreement”) made and entered into this ____ day of _____, 2023, by and between:

Kepler Road Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, and located in the City of DeLand, Florida, with a mailing address c/o Governmental Management Services – Central Florida, 219 East Livingston Street, Orlando, Florida 32801 (“District”); and

Kelly, Collins & Gentry, Inc., a Florida corporation, with a mailing address of 1700 North Orange Avenue, Suite 400, Orlando, Florida, 32804 (“Engineer,” and together with the District, the “Parties”).

WHEREAS, the District is a local unit of special-purpose government established pursuant to the Uniform Community Development District Act of 1980, as codified in Chapter 190, *Florida Statutes* (“Uniform Act”), by ordinance of the City of DeLand, Florida; and

WHEREAS, the District is authorized to plan, finance, construct, install, acquire and/or maintain improvements, facilities and services in conjunction with the development of the lands within the District; and

WHEREAS, the District intends to employ Engineer on an interim basis to perform engineering, surveying, planning, construction administration, environmental management and permitting, financial and economic studies, as defined by a separate work authorization; and

WHEREAS, the Engineer shall serve as District’s professional representative in each service or project to which this Agreement applies and will give consultation and advice to the District during performance of his services.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the acts and deeds to be performed by the parties and the payments by the District to the Engineer of the sums of money herein specified, it is mutually covenanted and agreed as follows:

Article 1. Scope of Services

- A. The Engineer will provide general engineering services, including:
 - 1. Preparation of any necessary reports and attendance at meetings of the District’s Board of Supervisors.
 - 2. Assistance in meeting with necessary parties involving bond issues, special reports, feasibility studies, or other tasks.

3. Any other items requested by the Board of Supervisors.

Article 2. Method of Authorization. Each service or project shall be authorized in writing by the District. The written authorization shall be incorporated in a work authorization which shall include the scope of work, compensation, project schedule, and special provisions or conditions specific to the service or project being authorized and shall be in a form similar to the form set forth in **Exhibit A** hereto (the "Work Authorization"). Authorization of services or projects under the contract shall be at the sole option of the District.

Article 3. Compensation. It is understood and agreed that the services rendered by Engineer under this contract shall not exceed \$25,000. It is further understood and agreed that the payment of compensation for services under this contract shall be stipulated in each Work Authorization. One of the following methods will be utilized:

- A. Lump Sum Amount - The District and Engineer shall mutually agree to a lump sum amount for the services to be rendered payable monthly in direct proportion to the work accomplished.
- B. Hourly Personnel Rates - For services or projects where scope of services is not clearly defined, or recurring services or other projects where the District desires the use of the hourly compensation rates outlined in **Schedule "B."**

Article 4. Reimbursable Expenses. Reimbursable expenses consist of actual expenditures made by Engineer, its employees, or its consultants in the interest of the project for the incidental expenses as listed as follows:

- A. Expenses of transportation and living when traveling in connection with a project, for long distance phone calls and telegrams, and fees paid for securing approval of authorities having jurisdiction over the project. All expenditures shall be made in accordance with Chapter 112, *Florida Statutes*, and with the District's travel policy.
- B. Expense of reproduction, postage and handling of drawings and specifications.

Article 5. Term of Contract. It is understood and agreed that this contract is for interim engineering services. It is further understood and agreed that the term of this contract will be from the time of execution of this contract by the parties until such time as the District notifies Engineer that it has entered into a subsequent agreement for engineering services.

Article 6. Special Consultants. When authorized in writing by the District, additional special consulting services may be utilized by Engineer and paid for on a cost basis.

Article 7. Books and Records. Engineer shall maintain comprehensive books and records relating to any services performed under this Agreement, which shall be retained by Engineer for a period of at least four (4) years from and after completion of any services hereunder.

The District, or its authorized representative, shall have the right to audit such books and records at all reasonable times upon prior notice to Engineer.

Article 8. Ownership of Documents.

A. All rights in and title to all plans, drawings, specifications, ideas, concepts, designs, sketches, models, programs, software, creation, inventions, reports, or other tangible work product originally developed by Engineer pursuant to this Agreement (the “Work Product”) shall be and remain the sole and exclusive property of the District when developed and shall be considered work for hire.

B. The Engineer shall deliver all Work Product to the District upon completion thereof unless it is necessary for Engineer, in the District’s sole discretion, to retain possession for a longer period of time. Upon early termination of Engineer’s services hereunder, Engineer shall deliver all such Work Product whether complete or incomplete upon payment of all outstanding balances due Engineer for Work Product. The District shall have all rights to use any and all Work Product. Engineer shall retain copies of the Work Product for its permanent records, provided the Work Product is not used without the District’s prior express written consent. Engineer agrees not to recreate any Work Product contemplated by this Agreement, or portions thereof, which if constructed or otherwise materialized, would be reasonably identifiable with the Project. If said Work Product is used by the District for any purpose other than that purpose which is intended by this Agreement, the District shall indemnify Engineer from any and all claims and liabilities which may result from such re-use, in the event Engineer does not consent to such use.

C. The District exclusively retains all manufacturing rights to all materials or designs developed under this Agreement. To the extent the services performed under this Agreement produce or include copyrightable or patentable materials or designs, such materials or designs are work made for hire for the District as the author, creator, or inventor thereof upon creation, and the District shall have all rights therein including, without limitation, the right of reproduction, with respect to such work. Engineer hereby assigns to the District any and all rights Engineer may have including, without limitation, the copyright, with respect to such work. The Engineer acknowledges that the District is the motivating factor for, and for the purpose of copyright or patent, has the right to direct and supervise the preparation of such copyrightable or patentable materials or designs.

Article 9. Accounting Records. Records of Engineer pertaining to the services provided hereunder shall be kept on a basis of generally accepted accounting principles and shall be available to the District or its authorized representative for observation or audit at mutually agreeable times.

Article 10. Reuse of Documents. All documents including drawings and specifications furnished by Engineer pursuant to this Agreement are instruments of service. They are not intended or represented to be suitable for reuse by District or others on extensions of the work for which they were provided or on any other project. Any reuse without specific written

consent by Engineer will be at the District's sole risk and without liability or legal exposure to Engineer.

Article 11. Estimate of Cost. Since Engineer has no control over the cost of labor, materials or equipment or over a contractor's(s') methods of determining prices, or over competitive bidding or market conditions, his opinions of probable cost provided as a service hereunder are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposals, bids, or the construction costs will not vary from opinions of probable cost prepared by him. If the District wishes greater assurance as to the construction costs, it shall employ an independent cost estimator at its own expense. Services to modify approved documents to bring the construction cost within any limitation established by the District will be considered additional services and justify additional fees.

Article 12. Insurance. Engineer shall, at its own expense, maintain insurance during the performance of its services under this Agreement, with limits of liability not less than the following:

Workers Compensation	Statutory
General Liability	
Bodily Injury (including Contractual)	\$500,000/\$1,000,000
Property Damage (including Contractual)	\$500,000/\$1,000,000
Automobile Liability	
Bodily Injury	\$500,000/\$1,000,000
Property Damage	\$100,000
Professional Liability for Errors and Omissions	\$1,000,000

Engineer shall provide District with a certificate evidencing compliance with the above terms and naming the District and its supervisors, employees, agents and staff as additional insureds. Engineer shall provide the District with thirty (30) days' notice of cancellation. At no time shall Engineer be without insurance in the above amounts.

Article 13. Contingent Fee. The Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Engineer, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

Article 14. Audit. The Engineer agrees that the District or any of its duly authorized representatives shall, until the expiration of three (3) years after expenditure of funds under this Agreement, have access to and the right to examine any books, documents, papers, and records of the Engineer involving transactions related to the Agreement. The Engineer agrees that payment made under the Agreement shall be subject to reduction for amounts charged thereto that are found on the basis of audit examination not to constitute allowable costs. All required records shall be maintained until an audit is completed and all questions arising therefrom are resolved, or three (3) years after completion of all work under the Agreement.

Article 15. Indemnification.

A. The Engineer agrees, to the fullest extent permitted by law, to indemnify and hold harmless the District, its officers, supervisors, agents, staff, and representatives from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, paralegal fees, and expert witness fees and costs for trial, alternative dispute resolution, or appellate proceedings, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct or errors or omissions of the Engineer and persons employed or utilized by the Engineer in the performance of this Agreement.

B. Engineer agrees and covenants that nothing herein shall constitute or be construed as a waiver of the District's sovereign immunity pursuant to Section 768.28, *Florida Statutes*, or other applicable law. The District agrees, to the extent permitted by Section 768.28, *Florida Statutes*, and other applicable law, to indemnify and hold the Engineer harmless from any damage, liability or cost to the extent caused by the District's negligence, recklessness, or intentionally wrongful conduct of the District and persons employed or utilized by the District in the performance of this Agreement.

C. The following shall apply only to the extent a limitation on liability is required by Section 725.06, *Florida Statutes* or other applicable law: liability under this section shall in no event exceed the sum of Two Million Dollars (\$2,000,000). Engineer shall carry, at its own expense, insurance in a company satisfactory to District to cover the aforementioned liability. Engineer agrees such limitation bears a reasonable commercial relationship to the Agreement.

D. Disclaimer of Consequential Damages - Notwithstanding anything to the contrary in this Agreement, the Parties shall have no liability to each other for indirect, consequential, or special damages including, but not limited to, liability or damages for delays of any nature, loss of anticipated revenues or profits, costs of shutdown or startup.

E. UNDER THIS AGREEMENT, AND SUBJECT TO THE REQUIREMENTS OF SECTION 558.0035, FLORIDA STATUTES, WHICH REQUIREMENTS ARE EXPRESSLY INCORPORATED HEREIN, AN

INDIVIDUAL EMPLOYEE OR AGENT OF ENGINEER MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

Article 16. Public Records. The Engineer understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, the Engineer agrees to comply with all applicable provisions of Florida law in handling such records, including, but not limited to, Section 119.0701, *Florida Statutes*. Among other requirements and to the extent applicable by law, the Engineer shall 1) keep and maintain public records required by the District to perform the service; 2) upon request by the Public Records Custodian, provide the District with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of this Agreement term and following this Agreement term if the Engineer does not transfer the records to the Public Records Custodian of the District; and 4) upon completion of this Agreement, transfer to the District, at no cost, all public records in the Engineer's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Engineer, the Engineer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the District in a format that is compatible with Microsoft Word or Adobe PDF formats. The Engineer acknowledges that the designated Public Records Custodian for the District is George Flint.

IF THE ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ENGINEER DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (407) 841-5524, GFLINT@GMSCFL.COM, OR 219 EAST LIVINGSTON STREET, ORLANDO, FLORIDA 32801.

Article 17. Employment Verification. The Engineer agrees that it shall bear the responsibility for verifying the employment status, under the Immigration Reform and Control Act of 1986, of all persons it employs in the performance of this Agreement.

Article 18. Controlling Law. Engineer and the District agree that this Agreement shall be controlled and governed by the laws of the State of Florida.

Article 19. Assignment. Neither the District nor the Engineer shall assign, sublet, or transfer any rights under or interest in this Agreement without the express written consent of the other. Nothing in this paragraph shall prevent the Engineer from employing such independent professional associates and consultants as Engineer deems appropriate, pursuant to Article 6 herein.

Article 20. Termination. The District and the Engineer may terminate this Agreement without cause upon notice. At such time as Engineer receives notification by the District to terminate the contract, Engineer shall not perform any further services unless directed to do so by the Board of Supervisors. In the event of any termination, Engineer will be paid for services rendered to the date of termination and all reimbursable expenses incurred to the date of termination.

Article 21. Recovery of Costs and Fees. In the event either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, including reasonable attorneys' fees.

Article 22. Acceptance. Acceptance of this Agreement is indicated by the signature of the authorized representative of the District and the Engineer in the spaces provided below.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused these present to be executed the day and year first above written.

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary

Chairman, Board of Supervisors

KELLY, COLLINS & GENTRY, INC.

Witness

By: _____

Exhibit A Work Authorization
Schedule B Fee Schedule

Exhibit A: Work Authorization
_____, 2023

Kepler Road Community Development District
City of DeLand, Florida

Subject: **Work Authorization Number _**
 Kepler Road Community Development District

Dear Chairman, Board of Supervisors:

Kelly, Collins & Gentry, Inc., is pleased to submit this work authorization to provide interim engineering services for the Kepler Road Community Development District (“District”). We will provide these services pursuant to our current agreement dated _____, 2023 (“Engineering Agreement”) as follows:

I. Scope of Work

The District will engage the services of Kelly, Collins & Gentry, Inc., as Interim Engineer to perform those services [INSERT SERVICES TO BE PROVIDED].

II. Fees

The District will compensate Kelly, Collins & Gentry, Inc., pursuant to the hourly rate schedule contained in the Engineering Agreement. The District will reimburse Kelly, Collins & Gentry, Inc., all direct costs which include items such as printing, drawings, travel, deliveries, et cetera, pursuant to the Agreement.

This proposal, together with the Engineering Agreement, represents the entire understanding between the District and Kelly, Collins & Gentry, Inc., with regard to the referenced work authorization. If you wish to accept this work authorization, please sign both copies where indicated, and return one complete copy to our office. Upon receipt, we will promptly schedule our services.

Thank you for considering Kelly, Collins & Gentry, Inc. We look forward to helping you create a quality project.

APPROVED AND ACCEPTED

Sincerely,

By: _____
Authorized Representative of
Kepler Road Community
Development District

Date: _____

SCHEDULE "B"

**KELLY, COLLINS & GENTRY, INC.
SCHEDULE OF HOURLY RATES**

Principal	\$320.00
Chief Engineer	\$240.00
Chief Planner	\$210.00
Senior Engineer	\$185.00
Senior Designer	\$125.00
Senior Project Manager	\$185.00
Project Manager	\$125.00
Senior Planner	\$145.00
Project Engineer	\$145.00
Landscape Architect	\$85.00
CADD Operator	\$120.00
Engineering Intern	\$85.00
Sr. Administration	\$125.00
Administration	\$60.00
Drone Pilot	\$150.00

All sums due for professional services are payable upon your receipt of our invoice. Payments not received within 20 days of receipt shall accrue interest at the rate of 8% from the due date until paid. In the event it is necessary to retain the services of an attorney or other debt collector to obtain payment, all costs of collection, including court costs and attorney fees shall be includable in any amounts claimed.

Hourly rates are valid for 12 months from day of this proposal.

Prepared By: Kelly, Collins & Gentry, Inc.

SECTION D

**REQUEST FOR QUALIFICATIONS FOR ENGINEERING SERVICES
FOR THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT**

RFQ for Engineering Services

The Kepler Road Community Development District (“District”), located in the City of Deland, Florida, announces that professional engineering services will be required on a continuing basis for the District’s stormwater management system, landscaping improvements, utilities, roadway improvements, and other public improvements authorized by Chapter 190, *Florida Statutes*. The engineering firm selected will act in the general capacity of District Engineer and provide District engineering services, as required.

Any firm or individual (“Applicant”) desiring to provide professional services to the District must: 1) hold applicable federal, state and local licenses; 2) be authorized to do business in Florida in accordance with Florida law; and 3) furnish a statement (“Qualification Statement”) of its qualifications and past experience on U.S. General Service Administration’s “Architect-Engineer Qualifications, Standard Form No. 330,” with pertinent supporting data. Among other things, Applicants must submit information relating to: a) the ability and adequacy of the Applicant’s professional personnel; b) whether the Applicant is a certified minority business enterprise; c) the Applicant’s willingness to meet time and budget requirements; d) the Applicant’s past experience and performance, including but not limited to past experience as a District Engineer for any community development districts and past experience with Volusia County; e) the geographic location of the Applicant’s headquarters and offices; f) the current and projected workloads of the Applicant; and g) the volume of work previously awarded to the Applicant by the District. Further, each Applicant must identify the specific individual affiliated with the Applicant who would be handling District meetings, construction services, and other engineering tasks.

The District will review all Applicants and will comply with Florida law, including the Consultant’s Competitive Negotiations Act, Chapter 287, *Florida Statutes* (“CCNA”). All applicants interested must submit eight (8) copies of Standard Form No. 330 and Qualification Statement by 12:00 p.m. on _____ to the attention of George Flint, GMS – Central Florida, LLC, 219 East Livingston Street, Orlando, Florida 32801 (“District Manager’s Office”).

The Board shall select and rank the Applicants using the requirements set forth in the CCNA and the evaluation criteria on file with the District Manager, and the highest ranked Applicant will be requested to enter into contract negotiations. If an agreement cannot be reached between the District and the highest ranked Applicant, negotiations will cease and begin with the next highest ranked Applicant, and if these negotiations are unsuccessful, will continue to the third highest ranked Applicant.

The District reserves the right to reject any and all Qualification Statements. Additionally, there is no express or implied obligation for the District to reimburse Applicants for any expenses associated with the preparation and submittal of the Qualification Statements in response to this request.

Any protest regarding the terms of this Notice, or the evaluation criteria on file with the District Manager, must be filed in writing, within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the publication of this Notice. The 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. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of any right to object or protest with respect to aforesaid Notice or evaluation criteria provisions. Any person who files a notice of protest shall provide to the District, simultaneous with the filing of the notice, a protest bond with a responsible surety to be approved by the District and in the amount of Ten Thousand Dollars (\$10,000.00). Additional information and requirements regarding protests are set forth in the District’s Rules of Procedure, which are available from the District Manager.

Publish on _____

**KEPLER ROAD
COMMUNITY DEVELOPMENT DISTRICT**

DISTRICT ENGINEER PROPOSALS

COMPETITIVE SELECTION CRITERIA

1) Ability and Adequacy of Professional Personnel (Weight: 25 Points)

Consider the capabilities and experience of key personnel within the firm including certification, training, and education; affiliations and memberships with professional organizations; etc.

2) Consultant's Past Performance (Weight: 25 Points)

Past performance for other Community Development Districts in other contracts; amount of experience on similar projects; character, integrity, reputation, of respondent; etc.

3) Geographic Location (Weight: 20 Points)

Consider the geographic location of the firm's headquarters, offices and personnel in relation to the project.

4) Willingness to Meet Time and Budget Requirements (Weight: 15 Points)

Consider the consultant's ability and desire to meet time and budget requirements including rates, staffing levels and past performance on previous projects; etc.

5) Certified Minority Business Enterprise (Weight: 5 Points)

Consider whether the firm is a Certified Minority Business Enterprise. Award either all eligible points or none.

6) Recent, Current and Projected Workloads (Weight: 5 Points)

Consider the recent, current and projected workloads of the firm.

7) Volume of Work Previously Awarded to Consultant by District (Weight: 5 Points)

Consider the desire to diversify the firms that receive work from the District; etc.

SECTION E

RESOLUTION 2024-05

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A REGISTERED AGENT AND REGISTERED OFFICE OF THE DISTRICT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, the District is statutorily required to designate a registered agent and a registered office location for the purposes of accepting any process, notice, or demand required or permitted by law to be served upon the District in accordance with Section 189.014(1), *Florida Statutes*.

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

SECTION 1. Sarah R. Sandy is hereby designated as the Registered Agent for the Kepler Road Community Development District.

SECTION 2. The District’s Registered Office shall be located at Kutak Rock LLP, 107 W. College Avenue, Tallahassee, Florida 32301 Phone: (850) 692-7300.

SECTION 3. In accordance with Section 189.014, *Florida Statutes*, the District’s Secretary is hereby directed to file certified copies of this Resolution with the City of Leesburg, Lake County, and the Florida Department of Commerce.

SECTION 4. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION IV

SECTION A

RESOLUTION 2024-06

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT ADOPTING THE ANNUAL MEETING SCHEDULE FOR THE REMAINDER OF FISCAL YEAR 2024; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, and situated entirely within the City of Deland, Florida; 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; and

WHEREAS, the Board desires to adopt the remainder of the Fiscal Year 2024 annual meeting schedule attached as **Exhibit A**.

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

SECTION 1. The Fiscal Year 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.

SECTION 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A

**BOARD OF SUPERVISORS MEETING DATES
KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT
FISCAL YEAR 2024**

The Board of Supervisors of the Kepler Road Community Development District will hold their regular meetings for Fiscal Year 2024 at _____, Florida _____, at __:__ a.m./p.m. unless otherwise indicated as follows:

[Add Meeting Dates]

The meetings are open to the public and will be conducted in accordance with the provision of Florida Law for Community Development Districts.

The meetings may be continued to a date, time, and place to be specified on the record at the meeting. A copy of the agenda for these meetings may be obtained from the District Manager, Governmental Management Services – Central Florida, LLC or by calling (407) 841-5524.

There may be occasions when one or more Supervisors or staff will participate by speaker telephone. Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the District Office at (407) 841-5524 at least 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 Office.

A person who decides to appeal any decision made at the meeting with respect to any matter considered at the meeting 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 such appeal is to be based.

George S. Flint
District Manager
Governmental Management Services – Central Florida, LLC

SECTION B

RESOLUTION 2024-07

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A DATE, TIME, AND LOCATION FOR LANDOWNERS' MEETING OF THE DISTRICT, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, the District's Board of Supervisors ("Board") is statutorily authorized to exercise the powers granted to the District; and

WHEREAS, all meetings of the Board shall be open to the public and governed by provisions of Chapter 286, *Florida Statutes*; and

WHEREAS, the effective date of Ordinance No. 2023-27 creating the District (the "Ordinance") was November 20, 2023; and

WHEREAS, the District is statutorily required to hold a meeting of the landowners of the District for the purpose of electing five (5) supervisors for the District within ninety (90) days after the effective date of the Ordinance.

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

SECTION 1. In accordance with Section 190.006(2), *Florida Statutes*, the initial meeting of the landowners to elect five (5) supervisors of the District, shall be held on the ____ day of _____, 2024 at _____, at _____.
Information about the meeting may be obtained by contacting the Office of the District Manager, Governmental Management Services - Central Florida, LLC, located at 219 East Livingston Street, Orlando, Florida 32801; (Ph): 407-841-5524 ("Office of the District Manager").

SECTION 2. The District's Secretary is hereby directed to publish notice of this landowners' meeting and election in accordance with the requirements of Section 190.006(2)(a), *Florida Statutes*.

SECTION 3. Pursuant to Section 190.006(2)(b), *Florida Statutes*, the landowners' meeting and election is hereby announced at the Board's organizational meeting held on the December 11, 2023. A sample notice of landowners' meeting and election, proxy, ballot form and instructions were presented at such meeting and are attached hereto as **Composite Exhibit A**. Such documents are available for review and copying during normal business hours at the Office of the District Manager.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

Composite Exhibit A:

Sample Notice of Landowners' Meeting and Election, Proxy, Ballot
Form and Instructions

Composite Exhibit A

Sample Notice of Landowners' Meeting and Election, Proxy, Ballot Form and Instructions

**NOTICE OF LANDOWNERS' MEETING AND ELECTION OF THE KEPLER ROAD
COMMUNITY DEVELOPMENT DISTRICT**

Notice is hereby given to the public and all landowners within the Kepler Road Community Development District (the "District"), the location of which is generally described as comprising a parcel or parcels of land containing approximately 183.926 acres located south of State Road 44, west of S. Kepler Road/ Dr. Martin Luther King Jr Beltway, east of S. Blue Lake Avenue, and north of E. Beresford Avenue extension.

DATE: _____, 2024
TIME: _____
PLACE: _____

Each landowner may vote in person or by written proxy. Proxy forms may be obtained upon request by contacting the office of the District Manager Governmental Management Services Central Florida, LLC, 219 East Livingston Street, Orlando, Florida 32801; Ph: (407) 841-5524 ("District Office"). At said meeting each landowner or his or her proxy shall be entitled to nominate persons for the position of Supervisor and cast one vote per acre of land, or fractional portion thereof, owned by him or her and located within the District for each person to be elected to the position of Supervisor. A fraction of an acre shall be treated as one acre, entitling the landowner to one vote with respect thereto. Platted lots shall be counted individually and rounded up to the nearest whole acre. The acreage of platted lots shall not be aggregated for determining the number of voting units held by a landowner or a landowner's proxy. At the landowners' meeting the landowners shall select a person to serve as the meeting chair and who shall conduct the meeting.

The landowners' meeting is open to the public and will be conducted in accordance with the provisions of Florida law. The meeting may be continued to a date, time, and place to be specified on the record at such meeting. A copy of the agenda for this meeting may be obtained from the District Office.

Any person requiring special accommodations to participate in these meetings is asked to contact the District Office at (Ph): 407-841-5524, at least forty-eight (48) hours before the hearing. If you are hearing or speech impaired, please contact the Florida Relay Service at 7-1-1 or (800) 955-8770 for aid in contacting the District Office.

A person who decides to appeal any decision made by the Board with respect to any matter considered at the meeting is advised that such 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.

George Flint
District Manager

LANDOWNER PROXY
KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT
CITY OF DELAND, FLORIDA
LANDOWNERS' MEETING – _____, 2024

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, the fee simple owner of the lands described herein, hereby constitutes and appoints _____ (“**Proxy Holder**”) for and on behalf of the undersigned, to vote as proxy at the meeting of the landowners of Kepler Road Community Development District to be held at _____, on _____, 2024, at _____ .m. and at any adjournments thereof, according to the number of acres of unplatted land and/or platted lots owned by the undersigned landowner that the undersigned would be entitled to vote if then personally present, upon any question, proposition, or resolution or any other matter or thing that may be considered at said meeting including, but not limited to, the election of members of the Board of Supervisors. Said Proxy Holder may vote in accordance with his or her discretion on all matters not known or determined at the time of solicitation of this proxy, which may legally be considered at said meeting.

Any proxy heretofore given by the undersigned for said meeting is hereby revoked. This proxy is to continue in full force and effect from the date hereof until the conclusion of the landowners’ meeting and any adjournment or adjournments thereof, but may be revoked at any time by written notice of such revocation presented at the landowners’ meeting prior to the Proxy Holder’s exercising the voting rights conferred herein.

 Printed Name of Legal Owner

 Signature of Legal Owner

 Date

<u>Parcel Description</u>	<u>Acreage</u>	<u>Authorized Votes</u>
See Attachment A		
_____	_____	_____
_____	_____	_____
Total Number of Authorized Votes:		_____

NOTES: Pursuant to Section 190.006(2)(b), *Florida Statutes*, a fraction of an acre is treated as one (1) acre entitling the landowner to one vote with respect thereto. Moreover, two (2) or more persons who own real property in common that is one acre or less are together entitled to only one vote for that real property.

If the fee simple landowner is not an individual, and is instead a corporation, limited liability company, limited partnership or other entity, evidence that the individual signing on behalf of the entity has the authority to do so should be attached hereto (e.g., bylaws, corporate resolution, etc.).

OFFICIAL BALLOT
KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT
CITY OF DELAND, FLORIDA
LANDOWNERS' MEETING – _____, 2024

For Election (5 Supervisors): The two (2) candidates receiving the highest number of votes will each receive a four (4) year term, and the three (3) candidates receiving the next highest number of votes will each receive a two (2) year term, with the term of office for the successful candidates commencing upon election.

The undersigned certifies that he/she/it is the fee simple owner of land, or the proxy holder for the fee simple owner of land, located within the Kepler Road Community Development District and described as follows:

<u>Description</u>	<u>Acreage</u>
See Attachment A	_____
_____	_____
_____	_____

or

Attach Proxy.

I, _____, as Landowner, or as the proxy holder of _____, (Landowner) pursuant to the Landowner's Proxy attached hereto, do cast my votes as follows:

NAME OF CANDIDATE	NUMBER OF VOTES
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

Date: _____

Signed: _____

Printed Name: _____

SECTION C

SECTION 1

RESOLUTION 2024-08

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT TO DESIGNATE DATE, TIME AND PLACE OF PUBLIC HEARING AND AUTHORIZATION TO PUBLISH NOTICE OF SUCH HEARING FOR THE PURPOSE OF ADOPTING RULES OF PROCEDURE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, the Board of Supervisors of the District (the “Board”) is authorized by Section 190.011(5), *Florida Statutes*, to adopt rules and orders pursuant to Chapter 120, *Florida Statutes*.

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

SECTION 1. A Public Hearing will be held to adopt Rules of Procedure on February 12, 2024, at 11:00 a.m., at 880 Hwy 17, DeBary, FL 32713

SECTION 2. The District Secretary is directed to publish notice of the hearing in accordance with Section 120.54, *Florida Statutes*.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

RULES OF PROCEDURE

KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT

EFFECTIVE AS OF _____, 2023

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Rule 1.0 General.

- (1) The Kepler Road 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 (407) 841-5524. 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:

1. Call to order
 2. Roll call
 3. Public comment
 4. Organizational matters
 5. Review of minutes
 6. Specific items of old business
 7. Specific items of new business
 8. Staff reports
 - (a) District Counsel
 - (b) District Engineer
 - (c) District Manager
 1. Financial Report
 2. Approval of Expenditures
 9. Supervisor’s requests and comments
 10. Public comment
 11. 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) Variations 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. Variations and waivers from District rules may be granted subject to the following:
- (a) Variations 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 Responsive and Responsible 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 _____, 2023, 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.

SECTION D

SECTION 1

RESOLUTION 2024-09

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT APPROVING A PROPOSED BUDGET FOR FISCAL YEAR 2024 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 Kepler Road Community Development District (“**District**”) a proposed budget (“**Proposed Budget**”) for the remainder of the fiscal year ending September 30, 2024 (“**Fiscal Year 2024**”); 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 KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT:

1. **PROPOSED BUDGET APPROVED.** The Proposed Budget prepared by the District Manager for Fiscal Year 2024 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: _____

LOCATION: _____

3. **TRANSMITTAL OF PROPOSED BUDGET TO LOCAL GENERAL PURPOSE GOVERNMENTS.** The District Manager is hereby directed to submit a copy of the Proposed Budget to the City of Deland and Volusia County 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 DECEMBER 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary

By: _____
Its: _____

Kepler Road
Community Development District

Proposed Budget
FY2024



Table of Contents

1 General Fund

2-3 General Fund Narrative

Kepler Road

Community Development District

Proposed Budget

General Fund

Description	Proposed Budget FY2024
<u>Revenues</u>	
Developer Contributions	\$ 104,844
Total Revenues	\$ 104,844
<u>Expenditures</u>	
<i>General & Administrative</i>	
Supervisor Fees	\$ 10,000
FICA Expenditures	\$ 765
Engineering	\$ 12,500
Attorney	\$ 20,833
Management Fees	\$ 33,333
Information Technology	\$ 1,500
Website Maintenance **	\$ 2,750
Telephone	\$ 250
Postage & Delivery	\$ 833
Insurance	\$ 5,000
Printing & Binding	\$ 833
Legal Advertising	\$ 12,500
Other Current Charges	\$ 2,500
Office Supplies	\$ 521
Travel Per Diem	\$ 550
Dues, Licenses & Subscriptions	\$ 175
Total Expenditures	\$ 104,844
Excess Revenues/(Expenditures)	\$ -

* This budget is prorated from December 2023 to September 2024.

**Budget amount includes a one-time website creation fee.

Kepler Road Community Development District General Fund Narrative

Revenues:

Developer Contributions

The District will enter into a funding agreement with the Developer to fund the General Fund expenditures for the Fiscal Year.

Expenditures:

General & Administrative:

Supervisor Fees

Chapter 190, Florida Statutes, allows for each Board member to receive \$200 per meeting, not to exceed \$4,800 per year paid to each Supervisor for the time devoted to District business and meetings.

FICA Expenditures

Represents the Employer's share of Social Security and Medicare taxes withheld from Board of Supervisors checks.

Engineering

The District's engineer will be providing general engineering services to the District, e.g. attendance and preparation for monthly board meetings, review invoices and various projects as directed by the Board of Supervisors and the District Manager.

Attorney

The District's legal counsel will be providing general legal services to the District, e.g. attendance and preparation for meetings, preparation and review of agreements, resolutions, etc. as directed by the Board of Supervisors and the District Manager.

Management Fees

The District will receive Management, Accounting and Administrative services as part of a Management Agreement with Governmental Management Services-Central Florida, LLC. The services include but are not limited to, recording and transcription of board meetings, administrative services, budget preparation, all financial reports, annual audits, etc.

Information Technology

Represents costs with Governmental Management Services – Central Florida, LLC related to the District's information systems, which include but are not limited to video conferencing services, cloud storage services and servers, security, accounting software, etc.

Kepler Road Community Development District General Fund Narrative

Website Maintenance

Represents the costs with Governmental Management Services – Central Florida, LLC associated with monitoring and maintaining the District’s website created in accordance with Chapter 189, Florida Statutes. These services include site performance assessments, security and firewall maintenance, updates, document uploads, hosting and domain renewals, website backups, etc.

Telephone

Telephone and fax machine.

Postage & Delivery

The District incurs charges for mailing of Board meeting agenda packages, overnight deliveries, correspondence, etc.

Insurance

The District’s general liability and public official’s liability insurance coverages.

Printing & Binding

Printing and Binding agenda packages for board meetings, printing of computerized checks, stationary, envelopes, etc.

Legal Advertising

The District is required to advertise various notices for monthly Board meetings, public hearings, etc. in a newspaper of general circulation.

Other Current Charges

Bank charges and any other miscellaneous expenses incurred during the year.

Office Supplies

Any supplies that may need to be purchased during the fiscal year, e.g., paper, minute books, file folders, labels, paper clips, etc.

Travel Per Diem

The Board of Supervisors can be reimbursed for travel expenditures related to the conducting of District business.

Dues, Licenses & Subscriptions

The District is required to pay an annual fee to the Florida Department of Economic Opportunity for \$175. This is the only expense under this category for the District.

SECTION 2

**KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT
FISCAL YEAR 2023/2024 FUNDING AGREEMENT**

This agreement (“**Agreement**”) is made and entered into this 11th day of December 2023, by and between:

Kepler Road Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, and located in the City of Deland, Florida (“**District**”), and

TLC Trinity Gardens, LLC, a Florida limited liability company and a landowner in the District (“**Developer**”) with an address of 605 Commonwealth Avenue, Orlando, Florida 32814.

RECITALS

WHEREAS, the District was established by an ordinance adopted by the City Commission of the City of Deland, Florida, for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

WHEREAS, the District, pursuant to Chapter 190, *Florida Statutes*, is authorized to levy such taxes, special assessments, fees and other charges as may be necessary in furtherance of the District's activities and services; and

WHEREAS, Developer presently owns and/or is developing the majority of all real property described in **Exhibit A**, attached hereto and incorporated herein (“**Property**”), within the District, which Property will benefit from the timely construction and acquisition of the District's facilities, activities and services and from the continued operations of the District; and

WHEREAS, the District is adopting its general fund budget for the fiscal year beginning October 1, 2023 and ending September 30, 2024 (“**Fiscal Year 2023/2024 Budget**”); and

WHEREAS, this Fiscal Year 2023/2024 Budget, which both parties recognize may be amended from time to time in the sole discretion of the District, is attached hereto and incorporated herein by reference as **Exhibit B**; and

WHEREAS, the District has the option of levying non-ad valorem assessments on all land, including the Property, that will benefit from the activities, operations and services set forth in the Fiscal Year 2023/2024 Budget, or utilizing such other revenue sources as may be available to it; and

WHEREAS, in lieu of levying assessments on the Property, the Developer is willing to provide such funds as are necessary to allow the District to proceed with its operations as described in **Exhibit B**; and

WHEREAS, the Developer agrees that the activities, operations and services provide a special and peculiar benefit equal to or in excess of the costs reflected on **Exhibit B** to the Property; and

WHEREAS, the Developer has agreed to enter into this Agreement in lieu of having the District levy and collect any non-ad valorem assessments as authorized by law against the Property located within the District for the activities, operations and services set forth in **Exhibit B**; and

WHEREAS, Developer and District desire to secure such budget funding through the imposition of a continuing lien against the Property described in **Exhibit A** and otherwise as provided herein.

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt of which and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **FUNDING.** The Developer agrees to make available to the District the monies necessary for the operation of the District as called for in the budget attached hereto as **Exhibit B**, as may be amended from time to time in the District's sole discretion, within fifteen (15) days of written request by the District. Amendments to the Fiscal Year 2023/2024 Budget as shown on **Exhibit B** adopted by the District at a duly noticed meeting shall have the effect of amending this Agreement without further action of the parties. Funds provided hereunder shall be placed in the District's general checking account. These payments are made by the Developer in lieu of taxes, fees, or assessments which might otherwise be levied or imposed by the District.

2. **CONTINUING LIEN.** District shall have the right to file a continuing lien upon the Property described in **Exhibit A** for all payments due and owing under the terms of this Agreement and for interest thereon, and for reasonable attorneys' fees, paralegals' fees, expenses and court costs incurred by the District incident to the collection of funds under this Agreement or for enforcement of this lien, and all sums advanced and paid by the District for taxes and payment on account of superior interests, liens and encumbrances in order to preserve and protect the District's lien. The lien shall be effective as of the date and time of the recording of a "Notice of Lien for Fiscal Year 2023/2024 Budget" in the public records of Volusia County, Florida ("**County**"), stating among other things, the description of the real property and the amount due as of the recording of the Notice, and the existence of this Agreement. The District Manager, in its sole discretion, is hereby authorized by the District to file the Notice of Lien for Fiscal Year 2023/2024 Budget on behalf of the District, without the need of further Board action authorizing or directing such filing. At the District Manager's direction, the District may also bring an action at law against the record title holder to the Property to pay the amount due under this Agreement or may foreclose the lien against the Property in any manner authorized by law. The District may partially release any filed lien for portions of the Property subject to a plat if and when the Developer has demonstrated, in the District's sole discretion, such release will not materially impair the ability of the District to enforce the collection of funds hereunder. In the event the Developer sells any of the Property described in **Exhibit A** after the execution of this Agreement, the Developer's rights and obligations under this Agreement shall remain the same, provided

however that the District shall only have the right to file a lien upon the remaining Property owned by the Developer.

3. ALTERNATIVE COLLECTION METHODS.

a. In the alternative or in addition to the collection method set forth in Paragraph 2 above, the District may enforce the collection of funds due under this Agreement by action against the Developer in the appropriate judicial forum in and for the County. The enforcement of the collection of funds in this manner shall be in the sole discretion of the District Manager on behalf of the District. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the parties agree that the prevailing party shall be entitled to recover from the other all costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings.

b. The District hereby finds that the activities, operations and services set forth in **Exhibit B** provide a special and peculiar benefit to the Property, which benefit is initially allocated on an equal developable acreage basis. The Developer agrees that the activities, operations and services set forth in **Exhibit B** provide a special and peculiar benefit to the Property equal to or in excess of the costs set forth in **Exhibit B**, on an equal developable acreage basis. Therefore, in the alternative or in addition to the other methods of collection set forth in this Agreement, the District, in its sole discretion, may choose to certify amounts due hereunder as a non-ad valorem assessment on all or any part of the Property for collection, either through the Uniform Method of Collection set forth in Chapter 197, *Florida Statutes*, or under any method of direct bill and collection authorized by Florida law. Such assessment, if imposed, may be certified on the next available tax roll of the County property appraiser.

4. AGREEMENT; AMENDMENTS. This instrument shall constitute the final and complete expression of the agreement between the parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto.

5. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

6. ASSIGNMENT. This Agreement may be assigned, in whole or in part, by either party only upon the written consent of the other, which consent shall not be unreasonably withheld. Any assignment without such prior written approval shall be null and void.

7. DEFAULT. A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which shall include, but not be limited to, the right of damages, injunctive relief and specific performance and specifically including the ability of the District to enforce any and all payment obligations under this Agreement in the manner described herein in Paragraphs 2 and 3 above.

8. **THIRD PARTY RIGHTS; TRANSFER OF PROPERTY.** This Agreement is solely for the benefit of the formal parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns. In the event the Developer sells or otherwise disposes of its business or of all or substantially all of its assets relating to improvements, work product, or lands within the District, the Developer shall continue to be bound by the terms of this Agreement and additionally shall expressly require that the purchaser agree to be bound by the terms of this Agreement. The Developer shall give 90 days prior written notice to the District under this Agreement of any such sale or disposition.

9. **FLORIDA LAW GOVERNS.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida.

10. **ARM'S LENGTH TRANSACTION.** This Agreement has been negotiated fully between the parties as an arm's length transaction. The parties participated fully in the preparation of this Agreement with the assistance of their respective counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, the parties are each deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against any party.

11. **EFFECTIVE DATE.** The Agreement shall be effective upon the date first written above after execution by both parties hereto. The enforcement provisions of this Agreement shall survive its termination, until all payments due under this Agreement are paid in full.

IN WITNESS WHEREOF, the parties execute this Agreement the day and year first written above.

Attest:

**Kepler Road Community
Development District**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

TLC Trinity Gardens, LLC,
a Florida limited liability
company

Witness

By: _____
Its: _____

EXHIBIT A: Property Description
EXHIBIT B: Fiscal Year 2023/2024 Budget

DESCRIPTION

PARCEL 1:

The North 1/2 of the Southeast 1/4 of the Southwest 1/4, also the Northeast 1/4 of the Southwest 1/4, less and except the Northeast 1/4 thereof, also the South 1/2 of the Southeast 1/4, less 200 foot Road Right of Way for the West Volusia Beltline and less that portion of the Southeast 1/4 of the Southeast 1/4, lying East of the 200 foot West Volusia Beltline Road Right of Way, and less the Volusia County Water Retention Area and the Florida Power Company Substation Site and Access Parcel, all lying and being in Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 2:

The South 1/2 of the Northwest 1/4 of the Southeast 1/4, and the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 3:

The North 1/2 of the Southwest 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 4:

The South 1/2 of the Southeast 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida, less that portion deeded to the City of Deland in Special Warranty Deed recorded May 4, 2020 in Official Records Book 7848, Page 2721, Public Records of Volusia County, Florida.

PARCEL 5:

The South 1/2 of the Southwest 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida, less Road Right of Way and less that portion deeded to the City of Deland in Special Warranty Deed recorded May 4, 2020 in Official Records Book 7848, Page 2721, Public Records of Volusia County, Florida.

CONTAINING: 183.926 acres, more or less.

Being more particularly described as follows:

BEGIN at the Southwest corner of the Southeast 1/4 of Section 14, Township 17 South, Range 30 East Volusia County, Florida, said point being the beginning of a non-tangent curve concave Northerly and having a radius of 1275.00 feet: thence from a tangent bearing of South 89 degrees 32 minutes 15 seconds West run Westerly 207.55 feet along the arc of said curve through a central angle of 09 degrees 19 minutes 36 seconds to the end of said curve; thence North 81 degrees 09 minutes 12 seconds West 637.04 feet to the beginning of a non-tangent curve concave Southerly and having a radius of 3050.00 feet; thence from a tangent bearing of North 81 degrees 08 minutes 08 seconds West run Westerly 506.97 feet along the arc of said curve through a central angle of 09 degrees 31 minutes 25 seconds to the end of said curve; thence South 89 degrees 19 minutes 34 seconds West 1211.37 feet to a point on the East right of way line of South Blue Lake Avenue per Deed Book 306, Page 251 of the Public Records

of Volusia County, Florida and Volusia County right of way map Project 1358; thence North 01 degrees 03 minutes 38 seconds West 481.81 feet along said right of way line to a point on the North boundary of the South 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 14; thence South 89 degrees 06 minutes 10 seconds West 100.00 feet along said right of way line and said North boundary to a point on the West boundary of said Southwest 1/4 of said Section 14; thence North 01 degrees 03 minutes 38 seconds West 646.42 feet along said right of way line and said West boundary to the Northwest corner of said Southwest 1/4 of the Southwest 1/4; thence North 88 degrees 52 minutes 47 seconds East 1326.35 feet along said right of way line and the North boundary of said Southwest 1/4 of the Southwest 1/4 to the Southwest corner of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 00 degrees 59 minutes 38 seconds West 1303.17 feet along the West boundary of the Northeast 1/4 of the Southwest 1/4 of said Section 14 to the Northwest corner of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 88 degrees 26 minutes 03 seconds East 663.96 feet along the North boundary of said Southwest 1/4 to the Northeast corner of the Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence South 00 degrees 57 minutes 39 seconds East 654.17 feet along the East boundary of said Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 to the Southeast corner of said Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4; thence North 88 degrees 39 minutes 25 seconds East 663.56 feet along the North boundary of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14 to the Northeast corner of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 88 degrees 42 minutes 33 seconds East 667.07 feet along the North boundary of the Southwest 1/4 of the Northwest 1/4 of the Southeast 1/4 of said Section 14 to the Southwest corner of the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 of said Section 14; thence North 00 degrees 56 minutes 00 seconds West 659.89 feet along the West boundary of said Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 to the Northwest corner of said Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4; thence North 88 degrees 26 minutes 21 seconds East 667.04 feet along said North boundary of said Southeast 1/4 to the Northeast corner of the East 1/2 of said Northwest 1/4 of the Southeast 1/4; thence South 00 degrees 56 minutes 16 seconds East 1326.08 feet along the East boundary of said East 1/2 of the Northwest 1/4 of the Southeast 1/4 to the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of said Section 14; thence North 88 degrees 58 minutes 45 seconds East 592.01 feet along the North boundary of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 14 to a point on the West right of way line of West Volusia Beltline (Kepler Avenue) as recorded in Official Records Book 7707, Page 4683 of the Public Records of Volusia County, Florida, said point being the beginning of a non-tangent curve concave Westerly and having a radius of 3900.00 feet: thence from a tangent bearing of South 00 degrees 13 minutes 16 seconds East run Southerly 67.02 feet along the arc of said curve and said West right of way line through a central angle of 00 degrees 59 minutes 05 seconds to the end of said curve; thence South 00 degrees 13 minutes 16 seconds East 893.07 feet along said right of way line to the Northeast corner of that certain parcel of land described and recorded in Official Records Book 3897, Page 2485 of the Public Records of Volusia County, Florida; thence South 89 degrees 46 minutes 43 seconds West 300.00 feet along the North boundary of said lands to the Northwest corner of said lands; ; thence South 00 degrees 13 minutes 16 seconds East 307.91 feet along the West boundary of said lands to the Southwest corner of said lands; thence North 89 degrees 31 minutes 01 seconds East 300.00 feet along the South boundary of said lands to the Southeast corner of said lands and a point on the aforesaid West right of way line; thence South 00 degrees 13 minutes 16 seconds East 64.56 feet along said right of way line; thence South 00 degrees 14 minutes 26 seconds East 0.44 feet along said

right of way line to a point on the South boundary of said Southeast 1/4 of Section 14; thence South 89 degrees 31 minutes 09 seconds West 1691.41 feet along said South boundary to the Southeast corner of that certain parcel of land described and Recorded in Official Records Book 4317, Page 2773 of the Public Records of Volusia County, Florida; thence along the boundary of said parcel of land the following 7 courses and distances: thence North 00 degrees 54 minutes 31 seconds West 373.75 feet; thence North 89 degrees 05 minutes 29 seconds East 107.50 feet; thence North 00 degrees 54 minutes 31 seconds West 335.00 feet; thence South 89 degrees 05 minutes 29 seconds West 290.00 feet; thence South 00 degrees 54 minutes 31 seconds East 335.00 feet; thence North 89 degrees 05 minutes 29 seconds East 107.50 feet; thence South 00 degrees 54 minutes 31 seconds East 373.19 feet to a point on said South boundary of the Southeast 1/4; thence South 89 degrees 31 minutes 09 seconds West 141.01 feet along said South boundary to the Point of Beginning.

SECTION E

RESOLUTION 2024-10

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A DATE, TIME, AND LOCATION OF A PUBLIC HEARING REGARDING THE DISTRICT'S INTENT TO USE THE UNIFORM METHOD FOR THE LEVY, COLLECTION, AND ENFORCEMENT OF NON-AD VALOREM SPECIAL ASSESSMENTS AS AUTHORIZED BY SECTION 197.3632, *FLORIDA STATUTES*; AUTHORIZING THE PUBLICATION OF THE NOTICE OF SUCH HEARING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated within the City of Deland, Florida; and

WHEREAS, the District pursuant to the provisions of Chapter 190, *Florida Statutes*, is authorized to levy, collect, and enforce certain special assessments, which include benefit and maintenance assessments and further authorizes the District’s Board of Supervisors (the “Board”) to levy, collect, and enforce special assessments pursuant to Chapters 170, 190 and 197, *Florida Statutes*; and

WHEREAS, the District desires to use the Uniform Method for the levy, collection and enforcement of non-ad valorem special assessments authorized by Section 197.3632, *Florida Statutes*, (the “Uniform Method”).

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

SECTION 1. A Public Hearing will be held to adopt the Uniform Method on _____ at _____ at _____.

SECTION 2. The District Secretary is directed to publish notice of the hearing in accordance with Section 197.3632, *Florida Statutes*.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION V

SECTION A

RESOLUTION 2024-11

A RESOLUTION OF THE BOARD OF SUPERVISORS OF KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A PUBLIC DEPOSITORY FOR FUNDS OF THE DISTRICT; AUTHORIZING CERTAIN OFFICERS OF THE DISTRICT TO EXECUTE AND DELIVER ANY AND ALL FINANCIAL REPORTS REQUIRED BY RULE, STATUTE, LAW, ORDINANCE OR REGULATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (hereinafter the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, the Board of Supervisors of the District (“Board”) is statutorily authorized to select a depository as defined in Section 280.02, *Florida Statutes*, which meets all the requirements of Chapter 280, *Florida Statutes*, and has been designated by the State Chief Financial Officer as a qualified public depository; and

WHEREAS, the District has had no District revenues and has therefore made no public deposits nor has the District heretofore delegated to a Treasurer, or to any other person, responsibility for handling public deposits; and

WHEREAS, the District, prior to making any public deposit, is required to furnish to the Chief Financial Officer its official name, address, federal employer identification number, and the name of the person or persons responsible for establishing accounts; and

WHEREAS, the Board, having organized by appointing a Treasurer and other officers, is now in a position to select a public depository and to comply with the requirements for public depositories; and

WHEREAS, the Board wishes to designate a public depository for District funds.

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

SECTION 1. _____ is hereby designated as the public depository for funds of the District.

SECTION 2. In accordance with Section 280.17(2), *Florida Statutes*, the District’s Secretary is hereby directed to take the following steps:

- A.** Ensure that the name of the District is on the account or certificate or other form provided to the District by the qualified public depository in a manner sufficient to identify that the account is a Florida public deposit.
- B.** Execute the form prescribed by the Chief Financial Officer for identification of each public deposit account and obtain acknowledgement of receipt on the form from the qualified public depository at the time of opening the account.

- C. Maintain the current public deposit identification and acknowledgement form as a valuable record.

SECTION 3. The District’s Treasurer, upon assuming responsibility for handling the funds of the District, is directed to furnish the Chief Financial Officer annually, not later than November 30 of each year, the information required in accordance with Section 280.17(6), *Florida Statutes*, and otherwise take the necessary steps to ensure that all other requirements of Section 280.17, *Florida Statutes*, have been met.

SECTION 4. The District Manager, Treasurer, and/or Assistant Treasurer are hereby authorized on behalf of the District to execute and deliver any and all other financial reports required by any other rule, statute, law, ordinance or regulation.

SECTION 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION B

RESOLUTION 2024-12

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT APPOINTING TREASURER, ASSISTANT TREASURER, AND SECRETARY OF THE DISTRICT AS SIGNORS ON THE DISTRICT'S LOCAL BANK ACCOUNT AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, and situated entirely within the City of Deland, Florida; and

WHEREAS, the District's Board of Supervisors desires to establish a local bank account for the District and appoint the Treasurer, Assistant Treasurer and Secretary as signors on the account.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT THAT:

SECTION 1. The District's appointed Treasurer, Assistant Treasurer, and Secretary shall be appointed as signors on the District's local bank account.

SECTION 2. This Resolution shall take effect upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION C

RESOLUTION 2024-13

A RESOLUTION SETTING FORTH THE POLICY OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT BOARD OF SUPERVISORS WITH REGARD TO THE SUPPORT AND LEGAL DEFENSE OF THE BOARD OF SUPERVISORS, DISTRICT OFFICERS, AND RETAINED STAFF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of Supervisors (the “Board”) and the officers and staff of Kepler Road Community Development District (the “District”) are constantly presented with the necessity for making decisions regarding various phases of the District policy and management; and

WHEREAS, it is absolutely essential to the effective operation of the District that such decisions be made in an environment where the threat of personal liability for the members of the Board and its officers and staff is maintained at a minimum; and

WHEREAS, the Board wishes to formalize a policy with regard to the support and legal protection of the Board and its officers and staff to reduce the threat of personal liability to such individuals and allow for an effective decision-making environment.

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

SECTION 1. As set forth in this Resolution, the District, in accordance with Florida law, agrees that the following Board members, officers, and staff (together, “Indemnitees”) of the District, shall be provided the benefit of the indemnification, support and legal defense provisions provided in this Resolution:

- A.** All members of the Board of Supervisors; and
- B.** Secretary and Assistant Secretaries, Treasurer and Assistant Treasurers, and other District officers, as well as District Staff (e.g., the District Manager, the District Engineer, and the District Counsel).

SECTION 2. As set forth in this Resolution and in accordance with Sections 111.07 and 768.28, *Florida Statutes*, the District hereby agrees to provide legal representation to defend any and all civil actions, including federal civil rights and other federal civil claims, arising from a complaint for damages or injuries suffered as a result of any action or omission of action of all Indemnitees, present or former, arising out of and in the scope of his or her employment or function, unless, in the case of a tort action, the Indemnitee acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. Defense of such civil actions includes, but is not limited to, any civil rights lawsuit seeking relief personally against any Indemnitee for an act or omission under color of state law, custom or usage, wherein it is alleged that such Indemnitee has deprived another person of rights secured under the Federal Constitution or laws, including, by way of example, actions under 42 U.S.C. §1983 or other federal statute. The District further agrees to provide legal representation to

defend against any other litigation arising against an Indemnitee from the performance of their official duties while serving a public purpose, including civil, administrative or criminal actions as permitted by law. By these provisions, the District does not waive any immunity from liability or limited waiver of such immunity as granted under Florida law. Rather, the District is stating that to the extent the State does not protect the Board and its officers from liability through its laws, the District is committed to doing so to the extent described in this Resolution and as permitted by law.

SECTION 3. The District may insure itself in order to cover all reasonable costs and fees directly arising out of or in connection with any legal claim or suit that directly results from a decision or act made by an Indemnitee while performing the duties and functions of his or her position.

SECTION 4. This Resolution is intended to evidence the District's support of Indemnitees who perform acts and render decisions in the good faith performance of their duties and functions. The District will neither support nor defend those actions or omissions committed by an individual outside the scope of his or her office or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. By adoption of this Resolution, the Indemnitee(s) in question are each presumed to have acted within the scope of his or her office and are presumed to be acting in good faith, without a malicious purpose, and not in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The District's Board of Supervisors may overcome this presumption only by unanimous vote of those participating and voting, in accordance with Section 7 herein.

SECTION 5. In the event that the District has expended funds to provide an attorney to defend a Indemnitee who is found to be personally liable by virtue of actions outside the scope of his or her employment or function, or is found to have acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, the individual shall be required to reimburse the District for funds so expended. The District may recover such funds in a civil action against such individual.

SECTION 6. The District agrees to pay any final judgment, including damages, fines, penalties, or other damages, costs, and attorneys' fees and costs, arising from any complaint for damages or injuries suffered as a result of any action or omission of action of any Indemnitee as described in Section 111.07, *Florida Statutes*. If the action arises under Section 768.28, *Florida Statutes*, as a tort claim, the limitations and provisions of that section governing payment shall apply. If the action is a civil rights action arising under 42 U.S.C. §1983, or similar federal statutes, payment for the full amount of judgment may be made unless the individual has been determined in the final judgment to have caused the harm intentionally. The District agrees to pay any compromise or settlement of any claim or litigation described in this paragraph; provided, however, that the District determines such compromise or settlement to be in the District's best interest.

SECTION 7. To rebut the presumption of the automatic payment of judgments or provision of legal representation pursuant to this Resolution, at least one of the following

determinations shall be made by a unanimous decision of the District's Board of Supervisors participating and voting:

- A. The actions of the Indemnitee were outside the scope of his or her duties and authority; or
- B. The acts or omissions of the Indemnitee constituted bad faith, malicious purpose, intentional infliction of harm, or were done in a manner exhibiting wanton and willful disregard of human rights, safety, or property; or
- C. The Indemnitee received financial profit or advantage to which he or she was not legally entitled.

SECTION 8. To ensure the provision of legal representation pursuant to this Resolution, the following must be met:

- A. A copy of the summons, complaint, notice, demand letter, or other document or pleading in the action, or a letter setting forth the substance of any claim or complaint, must be delivered to the District Chairman, Vice Chairman, District Manager, or District Counsel within fourteen (14) calendar days after actual receipt of any such document together with a specific request in writing that the District defend or provide representation for the Indemnitee; and
- B. The Indemnitee must cooperate continuously and fully with the District in the defense of the action.

SECTION 9. Any indemnification, legal defense, or other protection provided pursuant to this representation shall not extend to:

- A. Consulting or other outside professional or business activities for which the Indemnitee received financial or other material compensation, which are outside the scope of his or her District duties and authority; and
- B. Any independent contractor for whom defense or indemnification is not authorized pursuant to Section 1(b) of this Resolution, unless the Board votes to authorize such indemnification, legal defense, or other protection; and
- C. Any fine, penalty, or other punishment imposed as a result of conviction for a criminal offense, and any legal fees and costs incurred to defend criminal prosecution in which a conviction is obtained; and
- D. Claims brought against the Indemnitee by the District's Board of Supervisors; and
- E. Any indemnification or defense prohibited by law.

SECTION 10. In the event legal representation or defense is provided pursuant to this Resolution, the Indemnatee may either:

- A.** Retain legal counsel appointed by the District, in which case legal counsel shall be paid directly by the District; or
- B.** Retain legal counsel chosen by the Indemnatee, in which case the District shall have the right to:
 - i.** Approve, in advance, any agreement for legal fees or disbursements; and
 - ii.** Pay all or part of the legal fees, costs, and other disbursements, and to set a maximum for legal fees, costs, and other disbursements; and
 - iii.** Direct the defense and settle or compromise the action or claim; and
 - iv.** Reduce or offset any monies that may be payable by the District by any court costs or attorneys' fees awarded to the Indemnatee.

SECTION 11. The benefits of the policy adopted in this Resolution shall not enlarge the rights that would have been available to any third-party plaintiff or claimant in the absence of this policy.

SECTION 12. To the extent permitted by law, this policy shall inure to the benefit of the heirs, personal representatives, and estate of the Board member and/or officer.

SECTION 13. The District reserves the right to change, modify, or withdraw this Resolution in its sole discretion, except as to actions, demand or other claims based on acts or omissions that occurred before the effective change, modification, or withdrawal of this Resolution.

SECTION 14. This Resolution shall be effective as of its adoption on the date listed below and shall apply to any acts or omissions occurring after that date.

[Remainder of this page left intentionally blank]

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION D

RESOLUTION 2024-14

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
KEPLER ROAD COMMUNITY DEVELOPMENT
DISTRICT APPROVING THE EXECUTION OF THE
INTERLOCAL AGREEMENT WITH THE CITY OF DELAND,
FLORIDA.**

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida;

WHEREAS, the District was established by the Board of County Commissioners of the City of Deland, Florida, Ordinance No. 2023-27, adopted on November 20, 2023 and effective on November 20, 2023; and

WHEREAS, the District is required by the City of Deland, Florida, as a condition to its establishment, to enter in to the “Interlocal Agreement Between the City of Deland, Florida and the Kepler Road Community Development District Regarding the Exercise of Powers and Cooperation on Providing Additional Disclosure and Notices,” attached hereto as Exhibit “A”; and

WHEREAS, the District’s Board of Supervisors (the “Board”), desires to approve the Interlocal Agreement.

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

The District hereby approves the Interlocal Agreement and authorizes its execution by the Chairman or Vice Chairman for the District, in the form attached hereto as **Exhibit “A”** and to have it recorded within the property records of the City of Deland, Volusia County, Florida.

PASSED AND ADOPTED THIS 11th DAY OF DECEMBER, 2023 .

[Signatures on Following Page.]

SIGNATURE PAGE OF RESOLUTION 2024-14

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson/Vice-Chairperson

Exhibit "A": Interlocal Agreement

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF DELAND, FLORIDA AND
THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT
REGARDING THE
EXERCISE OF POWERS AND COOPERATION ON PROVIDING
ADDITIONAL DISCLOSURE AND NOTICES**

THIS INTERLOCAL AGREEMENT (the “Interlocal Agreement”), dated as of this ___ day of **December**, 2023, is entered into by and between the City of DeLand, Florida (the “City”), a municipal corporation of the State of Florida and the Kepler Road Community Development District (the “District”), a community development district created pursuant to the provisions of Chapter 190, *Florida Statutes*. The addresses of the parties are set forth below.

RECITALS:

WHEREAS, on November 6, 2023, and November 20, 2023, the City Commission enacted Ordinance Number 2023-27 (the “Ordinance”) establishing the Kepler Road Community Development District (the “District”) subject to this Interlocal Agreement being entered by the parties within 60 days of the enactment of the Ordinance; and

WHEREAS, the District consists of that real property wholly within the boundaries described in the Ordinance (the “Property”); and

WHEREAS, the District is an independent special district and a local unit of special-purpose government which is created pursuant to Chapter 190, *Florida Statutes*, and is limited to the performance of those specialized functions authorized by Chapter 190, *Florida Statutes*, and the Ordinance; and

WHEREAS, the governing body of the District is created, organized, constituted and authorized to function specifically as prescribed in Chapter 190, *Florida Statutes*, and the Ordinance for the delivery of urban community development services; and

WHEREAS, pursuant to Chapter 190, *Florida Statutes*, the District is presently authorized to construct, acquire, and maintain certain infrastructure improvements and services set forth in Section 190.012(1), *Florida Statutes*, for which the District may impose, levy and collect non-ad valorem special assessments on land within the boundaries of the District; and

WHEREAS, in accordance with Chapter 190, *Florida Statutes*, the City has expressed in the Ordinance its consent to the District Board (as defined herein) having the additional powers to finance, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for parks and facilities for indoor and outdoor recreational, cultural and educational uses, all as authorized and described by Section 190.012(2), *Florida Statutes*, for which the District may impose, levy and collect non-ad valorem special assessments on land within the boundaries of the District; and

WHEREAS, in order to effectuate the terms of the Ordinance, this Interlocal Agreement between the City and the District is entered into to further define the responsibility of the District to (i) provide for certain enhanced disclosure regarding the establishment of the District and the existence of liens and special assessments on lands contained within the District’s boundaries, (ii)

provide that annual notice be given by the District to all landowners within the District regarding the date, time and place of the scheduled monthly meetings of the Board of Supervisors for its ensuing fiscal year and (iii) provide that annual notice be given by the District to all landowners within the District regarding the date, time and place of its budget hearing; and

WHEREAS, this Interlocal Agreement has been approved by the District Board; and

WHEREAS, it is in the mutual interest of the City and the District to establish intergovernmental relations that encourage, promote and improve the coordination, overall effectiveness and efficiency of governmental activities and services within the boundaries of the District; and

WHEREAS, Section 163.01, *Florida Statutes*, known as the “*Florida Interlocal Cooperation Act of 1969*”, permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities, and

WHEREAS, the City and the District find this Interlocal Agreement to be necessary, proper and convenient to the exercise of their powers, duties and purposes authorized by law; and

WHEREAS, the City and the District desire to exercise jointly their common powers and authority concerning the cost effective financing of the acquisition and construction of the infrastructure, public improvements and community facilities; the avoidance of inefficiencies caused by the unnecessary duplication of services and facilities; and the clarification of responsibilities, obligations, duties, powers, and liabilities of each of the governmental bodies.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the District agree as follows:

ARTICLE I – INTRODUCTION

Section 1.01. Authority. This Interlocal Agreement is entered into pursuant to the authority set forth in the *Florida Interlocal Cooperation Act of 1969* and Chapter 190, *Florida Statutes*, and other applicable controlling provisions of law.

Section 1.02. Recitals and Exhibits. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Interlocal Agreement. All exhibits identified herein are hereby incorporated by reference to the same extent as if fully set forth herein.

Section 1.03. Authority to Contract. The execution of this Interlocal Agreement has been duly authorized by the appropriate body or officials of the City and the District, each party has complied with all applicable requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument. Further, by execution of this

Interlocal Agreement, the District ratifies and affirms, as true and correct, all statements made in the Petition filed with the City seeking the establishment of the District.

Section 1.04. Definitions.

(a). The following terms when used in capitalized form herein shall have the respective meaning indicated below unless the context shall clearly indicate otherwise:

(1). “Dedicate” or any derivative use of the word that may be used shall mean conveyance of real property in order to vest title to real property in a manner satisfactory to the City Attorney.

(2). “District Board” means the initial Board of Supervisors and all subsequent forms of the Board of Supervisors for the District.

(3). “Capital Assessments” means and refers to the terms “Benefit Special Assessments” and “Special Assessments”, as set forth and described in Subsection 190.021(2), *Florida Statutes*, and Section 190.022, *Florida Statutes*, respectively, levied for the purpose of repaying bonded indebtedness (and related expenses) to finance District improvements as implemented in accordance with controlling law, and expressly excludes special assessments levied for the purpose of operation and maintenance.

(4). “Parcel” means a portion of the Property such as a lot, parcel, tract or any other quantity of land capable of being separately conveyed and having a separate tax parcel identification number assigned by the Property Appraiser of Volusia County or Tax Collector of Volusia County.

(b). Additionally, the definitions of Section 334.03, *Florida Statutes*, and the definitions of the *DeLand City Code* shall be applicable in the interpretation and interpretation of this Interlocal Agreement.

ARTICLE II - DISTRICT PUBLIC INFRASTRUCTURE AND FACILITY OBLIGATIONS

Section 2.01. District Public Infrastructure And Facility Obligations.

(a). Without the City releasing any obligation of any developer with regard to the Property within the District or the obligations of the District in any manner whatsoever and with the City retaining all powers and control as to all such developers under all development orders and permits, as well as any general law, the District shall ensure that all public infrastructure and facilities required in accordance with the rezoning approved by the City on May 16, 2022 pursuant to Ordinance 2022-10 (the “Planned Development Agreement”) and which is permitted to be funded by the CDD pursuant to the Ordinance and this Interlocal Agreement, is funded and provided for when permitted by applicable law and as detailed in the Petition.

(b). The following elements of infrastructure and facilities shall be provided by the District at its sole cost, or shall be caused by the District to be provided, without cost to the City:

(1). *Public Roads*. The financing, funding, and completion of all project required roads in accordance with Sections L and M of the Planned Development Agreement. With regard to roadways, the District recognizes that controlling Florida law does not allow public roads to be gated.

(2). *Multimodal Trail Segment*. The financing, funding, and completion of the required multimodal trail in accordance with Section O.1.b. of the Planned Development Agreement. Consistent with the requirements of the Planned Development Agreement, the operation, ownership, and maintenance of the multimodal trail referenced herein shall be dedicated to the City.

(3). *Buffers*. A landscape buffer, no less than 30 feet in depth, along all project boundaries, which shall be maintained in accordance with City requirements by the District and/or homeowners association (“HOA”).

(4). *Landscaping, Trail Network, and Other Park Amenities*. The installation and maintenance of enhanced entry landscape features with an extensive internal trail network, as provided in Section O.1.a. of the Planned Development Agreement, leading to interconnected neighborhood parks, including but not limited to a community park, in accordance with Section O.1.d. of the Planned Development Agreement, green spaces, street trees, tree preservation areas, common areas and amenities all within walking distance from the residences and all accomplished in accordance with and subject to City review and approval. The completion, operation, ownership, and maintenance of the enhanced neighborhood amenities referenced in this section shall be consistent with the requirements of the Planned Development Agreement and provided by the District or HOA, except the operation, ownership, and maintenance of the community park and mulch trail network shall be provided by the District.

(5). *Environmental Considerations*. Ensuring and maintaining compliance with the required environmental considerations in Section I of the Planned Development Agreement including, but not limited to, compliance with City environmental standards as well as compliance with tree preservation, analysis, and mitigation.

(6). *Low Impact Development (LID)*. The installation and maintenance of all LID elements in accordance with Section O.1.e. of the Planned Development Agreement.

(7). *Public Access*. The District agrees any parks, trails, recreational amenities, and/or facilities associated therewith provided in this Section 2.01 which are financed, operated, and/or maintained by the District, shall be open to the public and the District shall not impose fees, rates, rentals, or other charges to non-resident members of the public for such access.

(8). *Development Consistent with Planned Development*. Without limiting the foregoing or any other legal obligation in any way, at a minimum, ensure compliance with, and adherence to, the standards of development set forth in the Planned Development Agreement, approved by the City on May 16, 2022, pursuant

to Ordinance 2022-10, which provides, among other things, for extensive improvements and services for the benefit of the public.

(9) The following chart shows the anticipated ownership and operation responsibilities of improvements within the District:

Improvement	Operations & Maintenance Entity
Stormwater & Conservation / Mitigation Areas	District
Utilities System (Onsite & Offsite) <i>Potable water, reclaimed water, & sanitary sewer systems</i>	City of DeLand
Roadway Improvements - On-site	City of DeLand
Roadway Improvements - Off-site	Volusia County
Beresford Multi-Modal Trail	City of DeLand
Interior Trail Network	District
Community Park	District
Amenity Complex with Pool, Dog Park, Playground	HOA

(c). The District irrevocably agrees that the commitments made herein are not subject to the provisions of Section 70.45, *Florida Statutes*, relating to governmental exactions, or any similar law or legal theory of a similar nature in any respect. Further, the District agrees that the City is not responsible for the construction or creation of public facilities or capacity in order to facilitate the development of the Property, except as otherwise agreed to or provided in the Planned Development Agreement. The District agrees to the granting of any and all utility easements to the City which the City deems necessary to serve the Property with public utilities and to provide for interconnectivity of amenities and facilities as may be determined to be in the public interest by the City. In addition to the above declarations relative to the dedication of easements to the City, the District agrees that the City has shown an essential nexus between a legitimate City interest and the conditions imposed herein. Further, the District agrees that the City has established that all proposed conditions are roughly proportional to the impacts of the development upon the public problems addressed herein based upon an individualized determination that the required dedication/commitment is related in both nature and extent to the impacts of the proposed development.

(d). With regard to the retention of maintenance responsibilities and the costs relating thereto, if the District determines to enter an agreement with a homeowners or property owners association which transfers maintenance responsibility to the association or a series of associations, the City shall have the right to review and approve any such agreement and ensure that the financial obligations of the City are not expanded in any way or the rights of the City reduced unless the City agrees specifically in writing, in a document of equal dignity herewith, to the contrary.

ARTICLE III - ENHANCED DISCLOSURE AND NOTICE

Section 3.01. Enhanced Disclosure of District and Assessments.

(a). In addition to the statutory requirements for disclosure set forth in Sections 190.008, 190.009, 190.048 and 190.0485, *Florida Statutes*, the District hereby agrees to have executed and filed in the Official Records of Volusia County a “Notice of Lien,” (or similar notice)

at the time any Capital Assessments are placed on Parcels within the District. Such notices are intended to inform potential future landowners of the Property of both the establishment of the District and the existence of liens and special assessments on lands contained within the District, which liens shall run with the land.

(b). The Notice of Lien referred to in Section 3.01(a) above supplements the following notices that shall also be placed on the Property in the Official Records of Volusia County: (i) the Notice of Establishment of the District, the (ii) Disclosure of Public Financing, and (iii) this Interlocal Agreement.

Section 3.02. Notice of District Meeting Schedule. In addition to the statutory notice requirement set forth in Subsection 190.008(2)(a), *Florida Statutes*, the District hereby agrees to publish in a newspaper that meets the requirements of Section 189.015, *Florida Statutes*, once a year a notice of the District’s adopted schedule of meetings of its Board of Supervisors for the ensuing fiscal year (“District Meeting Schedule”), which notice shall designate the date, time and place of each of the scheduled meetings. The described District Meeting Schedule will also be provided to the City by mail to the addresses for notices set forth herein as well as posting the meeting schedule online on the District’s website as noted herein.

Section 3.03. District Website Information. The District shall establish a website and provide information as required by Subsection 189.015(1), and Sections 189.016 and 189.069, *Florida Statutes*, and any other pertinent controlling law.

Section 3.04. Notice of Annual Budget Hearing. In addition to the statutory notice requirement set forth in Subsection 190.008(2)(a), *Florida Statutes*, upon request by the Volusia County Property Appraiser (“Property Appraiser”) and/or Volusia County Tax Collector (“Tax Collector”), the District hereby agrees to work in cooperation with the Property Appraiser and Tax Collector, as those offices may require, to have notice of the date, time and places of the annual budget hearing placed on the TRIM Notice sent to each landowner in the District. In the event of any increase to assessments, each affected landowner will get notice of the proposed increase and date, place and time of public hearing to consider such increase as provided under Florida Statute. The District shall also post budget information on its website, as noted in Section 3.03 above.

ARTICLE IV - NO ASSESSMENT OF CITY PROPERTY

Section 4.01. Exemption of City Property. The District shall not impose, levy, certify or otherwise seek to encumber or assess City owned property with regard to special assessments, non-ad valorem assessments, maintenance assessments or taxes, fees, or charges of any type or nature whatsoever. This exemption applies to property which is owned at the present time or becomes owned by the City at a later time and regardless of, or to, which use or uses the property is put.

ARTICLE V - CAPITAL ASSESSMENTS

Section 5.01. Imposition of Capital Assessments. The District may impose Capital Assessments upon Parcels located within the Property, as defined, for the purpose of repaying

bonded indebtedness (and related expenses) to finance the improvements that are being made within the property by the District as implemented in accordance with controlling law.

Section 5.02. Budget. The City has received data and other evidence relative to the improvements to be made within the District's Property as set forth herein and, to the extent that the City can reasonably determine based upon an analysis of the information received, but without any obligation to ensure that all data and evidence is true and correct or to certify such estimates as precisely accurate, has made a good faith conclusion that the financial needs and estimated budgetary plans of the District are reasonable.

ARTICLE VI - MISCELLANEOUS PROVISIONS

Section 6.01. Notices. Any notices required or allowed to be delivered shall be in writing and be deemed to be delivered when: (i) hand delivered to the official hereinafter designated, or (ii) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the party or parties shall have been specified by written notice to the other party delivered in accordance herewith.

If to the City:

Michael Pleus, ICMA-CM
City Manager
City Hall
120 South Florida Avenue
DeLand, Florida 32720

With a copy to:

Darren J. Elkind, Esquire
City Attorney
142 East New York Avenue
DeLand, Florida 32724

If to the District:

District Manager
Governmental Management Services – Central Florida, LLC
219 East Livingston Street
Orlando, Florida 32801

With Copy to:

Sarah R. Sandy
Kutak Rock LLP
107 West College Avenue
Tallahassee, Florida 32301

Section 6.02. Binding Effect. This Interlocal Agreement shall be binding upon and shall inure to the benefit of the City, the District, and their respective successors and assigns.

Section 6.03. Filing. The City Commission and the District Board hereby authorize and direct, after execution of this Interlocal Agreement by the duly qualified and authorized officers of each of the parties hereto, that this Interlocal Agreement be filed with the Clerk of the Circuit Court of Volusia County, Florida, in accordance with the requirements of Subsection 163.01(11), *Florida Statutes*.

Section 6.04. Applicable Law and Venue/Public Records.

(a). This Interlocal Agreement and the provisions contained herein shall be governed by and construed in accordance with the laws of the State of Florida.

(b). In any action, in equity or law, with respect to the enforcement or interpretation of this Interlocal Agreement, venue shall be solely in Volusia County, Florida. In the event of a dispute arising between the parties, the parties agree to exhaust any alternative dispute resolution procedures reasonably imposed by the City prior to filing suit or otherwise pursuing legal remedies. The District agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration to the City in alternative dispute resolution procedures or which the City had knowledge and failed to present during the alternative dispute resolution procedures. In the event that the City's procedures are exhausted, and a suit is filed, or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through mediation. Mediator selection and the procedures to be employed in mediation shall be mutually acceptable to the parties. Costs of mediation shall be shared equally among the parties.

(c). The parties agree to comply with the law of the State of Florida relating to public records.

(d). IF THE DISTRICT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DISTRICT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS INTERLOCAL AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT JULIE A. HENNESSY, MMC, CITY CLERK - AUDITOR, MMC, (386-626-7132, HENNESSY@DELAND.ORG, CITY HALL, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA 32720).

Section 6.05. Entire Agreement; Integration; Amendments and Waivers; Implied Amendments.

(a). This instrument and its exhibits constitute the entire integrated agreement by and between the parties and supersedes any and all previous discussions, understandings and agreements, if any, between the parties relating to the subject matter of this Interlocal Agreement.

(b). All prior discussions and negotiations by and between the parties are integrated into this Interlocal Agreement.

(c). Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment arising out of a document of equal dignity herewith.

(d). If material changes in Chapters 189 and 190, *Florida Statutes*, or any other controlling Florida Law are deemed by a party to automatically amend this Interlocal Agreement; then, in that event, if a party believes that such is the case, then that party shall, within 5 days, notify the other party of such belief and the rights of the parties to dispute such matter are preserved.

Section 6.06. Continued Effect; Remedies. Notwithstanding anything herein to the contrary, no provision of this Interlocal Agreement shall be construed to affect, alter, or otherwise impair the District's power to impose, levy and collect Capital Assessments or assessments for operation and maintenance purposes and the failure of the District to comply with or provide the enhanced disclosure or notices as described herein shall not in any manner render the Capital Assessments, the operation and maintenance assessments, or any of the proceedings related thereto ineffective; provided, however, that the District must comply with any applicable additional notice requirement set forth in Section 3.03 hereof prior to its annual operations and maintenance budget being effective. The City's sole remedy for the District's failure to perform in accordance with the terms of this Interlocal Agreement shall be an action for mandamus or specific performance, as applicable, by court order, to cause the District to comply with its obligations hereunder.

Section 6.07. Effective Date. This Interlocal Agreement shall become effective after its execution by the authorized representatives of both parties and upon the date of its recording with the Clerk of the Circuit Court of Volusia County, Florida to become a part of the title history of properties in the District. This Interlocal Agreement shall also be recorded in the public records of the City.

Section 6.08. Third Party Beneficiaries. Neither this Interlocal Agreement, or any part or provision thereof, this Interlocal Agreement, creates any rights in any third party or any relationship with any third party and this Interlocal Agreement is meant and intended to be solely for the benefit of the District and the City although the City has undertaken efforts to benefit the general public as a whole in taking the actions set forth herein.

Section 6.09. Construction. This Interlocal Agreement arises out of bona fide and good faith arms-length negotiations by and between the parties and, regardless of which party drafted this Interlocal Agreement, or any part or provision thereof, no part or provision of this Interlocal Agreement, nor the Interlocal Agreement as a whole, shall be construed or interpreted against a party for being the drafted of this Interlocal Agreement or any part or provision of this Interlocal Agreement.

[SIGNATURE PAGES IMMEDIATELY FOLLOW]

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Name: _____
Chair – Board of Supervisors

ATTEST:

Name: _____
Title: Secretary

APPROVED AS TO FORM AND LEGALITY:

Sarah R. Sandy, District Counsel

ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____ and _____, as Chair of the Board of Supervisors and Secretary, respectively, and they acknowledged executing the same freely and voluntarily and they are personally known to me or provided the following for identification _____. Sworn and subscribed before me, by said persons by means of [] physical presence or [] online notarization on the ____ day of _____, 2023, the said persons did take an oath and were first duly sworn by me, on oath, said persons, further, deposing and saying that they have read the foregoing and that the statements and allegations contained herein are true and correct.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

(Affix Notary Seal)

Notary Public: State of Florida
Print Name: _____

[ADDITIONAL SIGNATURE PAGE IMMEDIATELY FOLLOWS]

CITY OF DELAND

Christopher M. Cloudman
Mayor – Commissioner

ATTEST:

Julie A. Hennessy, MMC
City Clerk – Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind, City Attorney

ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____ and _____, as Mayor and City Manager of the City of DeLand, respectively, and they acknowledged executing the same freely and voluntarily and they are personally known to me or provided the following for identification _____. Sworn and subscribed before me, by said persons by means of [] physical presence or [] online notarization on the ____ day of _____, 2023, the said persons did take an oath and were first duly sworn by me, on oath, said persons, further, deposing and saying that they have read the foregoing and that the statements and allegations contained herein are true and correct.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

(Affix Notary Seal)

Notary Public: State of Florida
Print Name: _____

SECTION E

RESOLUTION 2024-15

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING THE RECORDING OF THE NOTICE OF ESTABLISHMENT OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Kepler Road 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 was established by Ordinance No. 2023-27, enacted by City Commission of the City of DeLand, Florida, which became effective on November 20, 2023; and

WHEREAS, Section 190.0485, *Florida Statutes*, requires a “Notice of Establishment” to be filed within 30 days after the effective date of the ordinance; and

WHEREAS, the District’s Board of Supervisors (“**Board**”) desires to authorize the recording of such notice in compliance with Florida law.

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

SECTION 1. AUTHORIZATION. The recording of the Notice of Establishment in substantially the form attached hereto as **Exhibit A** within the official records of Volusia County, Florida is hereby authorized.

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

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

Exhibit A: Notice of Establishment

This instrument was prepared by
and upon recording should be returned to:

Sarah R. Sandy
Kutak Rock LLP
107 West College Avenue
Tallahassee, Florida 32301

**NOTICE OF ESTABLISHMENT OF THE
KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT**

PLEASE TAKE NOTICE that on November 20, 2023, pursuant to a petition filed by TLC Trinity Gardens, LLC, the City Commission of the City of DeLand, Florida, enacted Ordinance No. 2023-27, which became effective on November 20, 2023, establishing the Kepler Road Community Development District (“District”). The legal description of the lands encompassed within the District is attached hereto as **Exhibit A**. The District is a special-purpose form of local government established pursuant to and governed by Chapter 190, *Florida Statutes*. More information on the powers, responsibilities, and duties of the District may be obtained by examining Chapter 190, *Florida Statutes*, or by contacting the District’s registered agent as designated to the Florida Department of Commerce in accordance with Section 189.014, *Florida Statutes*.

THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES

AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENT TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

IN WITNESS WHEREOF, this Notice has been executed on this ____ day of _____ 2023, and recorded in the Official Records of Volusia County, Florida.

George Flint, District Manager

Witness

Witness

Print Name

Print Name

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2023, by George Flint, as District Manager of the Kepler Road Community Development District, and who is either personally known to me, or produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

(NOTARY SEAL)

Name: _____
(Name of Notary Public, Printed, Stamped or
Typed as Commissioned)

Exhibit A

PARCEL 1:

The North 1/2 of the Southeast 1/4 of the Southwest 1/4, also the Northeast 1/4 of the Southwest 1/4, less and except the Northeast 1/4 thereof, also the South 1/2 of the Southeast 1/4, less 200 foot Road Right of Way for the West Volusia Beltline and less that portion of the Southeast 1/4 of the Southeast 1/4, lying East of the 200 foot West Volusia Beltline Road Right of Way, and less the Volusia County Water Retention Area and the Florida Power Company Substation Site and Access Parcel, all lying and being in Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 2:

The South 1/2 of the Northwest 1/4 of the Southeast 1/4, and the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 3:

The North 1/2 of the Southwest 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 4:

The South 1/2 of the Southeast 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida, less that portion deeded to the City of Deland in Special Warranty Deed recorded May 4, 2020 in Official Records Book 7848, Page 2721, Public Records of Volusia County, Florida.

PARCEL 5:

The South 1/2 of the Southwest 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida, less Road Right of Way and less that portion deeded to the City of Deland in Special Warranty Deed recorded May 4, 2020 in Official Records Book 7848, Page 2721, Public Records of Volusia County, Florida.

Being more particularly described as follows:

BEGIN at the Southwest corner of the Southeast 1/4 of Section 14, Township 17 South, Range 30 East Volusia County, Florida, said point being the beginning of a non-tangent curve concave Northerly and having a radius of 1275.00 feet: thence from a tangent bearing of South 89 degrees 32 minutes 15 seconds West run Westerly 207.55 feet along the arc of said curve through a central angle of 09 degrees 19 minutes 36 seconds to the end of said curve; thence North 81 degrees 09 minutes 12 seconds West 637.04 feet to the beginning of a non-tangent curve concave Southerly and having a radius of 3050.00 feet; thence from a tangent bearing of North 81 degrees 08 minutes 08 seconds West run Westerly 506.97 feet along the arc of said curve through a central angle of 09 degrees 31 minutes 25 seconds to the end of said curve; thence South 89 degrees 19 minutes 34 seconds West 1211.37 feet to a point on the East right of way line of South Blue Lake Avenue per Deed Book 306, Page 251 of the Public Records of Volusia County, Florida and Volusia County right of way map Project 1358; thence North 01 degrees 03 minutes 38 seconds West 481.81 feet along said right of way line to a point on the North boundary of the South 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 14; thence South 89 degrees 06 minutes 10 seconds West 100.00 feet along said right of way line and said North boundary to a point on the West boundary of said Southwest 1/4 of said Section 14; thence North 01 degrees 03 minutes 38 seconds West 646.42 feet along said right of way line and said West boundary to the Northwest corner of said Southwest 1/4 of the Southwest 1/4; thence North 88 degrees 52 minutes 47 seconds East 1326.35 feet along said right of way line and the North boundary of said Southwest 1/4 of the Southwest 1/4 to the Southwest corner of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 00 degrees 59 minutes 38 seconds West 1303.17 feet along the West boundary of the Northeast 1/4 of the Southwest 1/4 of said Section 14 to the Northwest corner of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 88 degrees 26 minutes 03 seconds East 663.96 feet along the North boundary of said Southwest 1/4 to the Northeast corner of the Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence South 00

degrees 57 minutes 39 seconds East 654.17 feet along the East boundary of said Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 to the Southeast corner of said Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4; thence North 88 degrees 39 minutes 25 seconds East 663.56 feet along the North boundary of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14 to the Northeast corner of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 88 degrees 42 minutes 33 seconds East 667.07 feet along the North boundary of the Southwest 1/4 of the Northwest 1/4 of the Southeast 1/4 of said Section 14 to the Southwest corner of the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 of said Section 14; thence North 00 degrees 56 minutes 00 seconds West 659.89 feet along the West boundary of said Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 to the Northwest corner of said Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4; thence North 88 degrees 26 minutes 21 seconds East 667.04 feet along said North boundary of said Southeast 1/4 to the Northeast corner of the East 1/2 of said Northwest 1/4 of the Southeast 1/4; thence South 00 degrees 56 minutes 16 seconds East 1326.08 feet along the East boundary of said East 1/2 of the Northwest 1/4 of the Southeast 1/4 to the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of said Section 14; thence North 88 degrees 58 minutes 45 seconds East 592.01 feet along the North boundary of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 14 to a point on the West right of way line of West Volusia Beltline (Kepler Avenue) as recorded in Official Records Book 7707, Page 4683 of the Public Records of Volusia County, Florida, said point being the beginning of a non-tangent curve concave Westerly and having a radius of 3900.00 feet: thence from a tangent bearing of South 00 degrees 13 minutes 16 seconds East run Southerly 67.02 feet along the arc of said curve and said West right of way line through a central angle of 00 degrees 59 minutes 05 seconds to the end of said curve; thence South 00 degrees 13 minutes 16 seconds East 893.07 feet along said right of way line to the Northeast corner of that certain parcel of land described and recorded in Official Records Book 3897, Page 2485 of the Public Records of Volusia County, Florida; thence South 89 degrees 46 minutes 43 seconds West 300.00 feet along the North boundary of said lands to the Northwest corner of said lands; ; thence South 00 degrees 13 minutes 16 seconds East 307.91 feet along the West boundary of said lands to the Southwest corner of said lands; thence North 89 degrees 31 minutes 01 seconds East 300.00 feet along the South boundary of said lands to the Southeast corner of said lands and a point on the aforesaid West right of way line; thence South 00 degrees 13 minutes 16 seconds East 64.56 feet along said right of way line; thence South 00 degrees 14 minutes 26 seconds East 0.44 feet along said right of way line to a point on the South boundary of said Southeast 1/4 of Section 14; thence South 89 degrees 31 minutes 09 seconds West 1691.41 feet along said South boundary to the Southeast corner of that certain parcel of land described and Recorded in Official Records Book 4317, Page 2773 of the Public Records of Volusia County, Florida; thence along the boundary of said parcel of land the following 7 courses and distances: thence North 00 degrees 54 minutes 31 seconds West 373.75 feet; thence North 89 degrees 05 minutes 29 seconds East 107.50 feet; thence North 00 degrees 54 minutes 31 seconds West 335.00 feet; thence South 89 degrees 05 minutes 29 seconds West 290.00 feet; thence South 00 degrees 54 minutes 31 seconds East 335.00 feet; thence North 89 degrees 05 minutes 29 seconds East 107.50 feet; thence South 00 degrees 54 minutes 31 seconds East 373.19 feet to a point on said South boundary of the Southeast 1/4; thence South 89 degrees 31 minutes 09 seconds West 141.01 feet along said South boundary to the Point of Beginning.

CONTAINING: 183.926 acres, more or less.

SECTION F

RESOLUTION 2024-16

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT ADOPTING THE ALTERNATIVE INVESTMENT GUIDELINES FOR INVESTING PUBLIC FUNDS IN EXCESS OF AMOUNTS NEEDED TO MEET CURRENT OPERATING EXPENSES, IN ACCORDANCE WITH SECTION 218.415(17), *FLORIDA STATUTES*, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, and situated entirely within the City of Deland, Florida; and

WHEREAS, the District’s Board of Supervisors (the “Board”) is required to adopt an investment policy in accordance with Section 218.415, *Florida Statutes*; and

WHEREAS, Board desires to adopt the alternative investment guidelines for the investment of public funds in excess of amounts needed to meet current operating expenses, in accordance with Section 218.415, *Florida Statutes*.

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

SECTION 1. The District hereby adopts the alternative investment guidelines for the investment of public funds in excess of the amounts needed to meet current operating expenses, in accordance with Section 218.415(17), *Florida Statutes*. The District may invest in the following instruments and may divest itself of investments, at prevailing prices or rates:

- A.** The Local Government Surplus Trust Fund, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act, as provided in Section 163.01, *Florida Statutes*.
- B.** Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency.
- C.** Interest-bearing time deposits or savings accounts in qualified public depositories as defined in Section 280.02, *Florida Statutes*.
- D.** Direct obligations of the U.S. Treasury.

SECTION 2. Securities listed in paragraphs (c) and (d) shall be invested to provide sufficient liquidity to pay obligations as they come due.

SECTION 3. This Resolution shall take effect upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION G

RESOLUTION 2024-17

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING THE DISTRICT MANAGER OR TREASURER TO EXECUTE THE PUBLIC DEPOSITORS REPORT; AUTHORIZING THE EXECUTION OF ANY OTHER FINANCIAL REPORTS AS REQUIRED BY LAW; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of Supervisors (the “Board”) of the Kepler Road Community Development District (the “District”) has established the positions of District Manager and Treasurer for the purposes of maintaining the financial records of the District; and

WHEREAS, the District desires to authorize District staff to execute the Public Depositor Report and all other financial reports required by law.

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

SECTION 1. The District Manager or Treasurer are hereby authorized, on behalf of the District, to execute the Public Depositor Report and to transmit same to the Treasurer of the State of Florida as required by Chapter 280, *Florida Statutes*, as amended, and any and all other financial reports required by any other rule, statute, law, ordinance or regulation.

SECTION 2. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION H

RESOLUTION 2024-18

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT PROVIDING FOR THE PUBLIC’S OPPORTUNITY TO BE HEARD; DESIGNATING PUBLIC COMMENT PERIODS; DESIGNATING A PROCEDURE TO IDENTIFY INDIVIDUALS SEEKING TO BE HEARD; ADDRESSING PUBLIC DECORUM; ADDRESSING EXCEPTIONS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated in the City of Deland, Florida; and

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

WHEREAS, Section 286.0114, *Florida Statutes*, requires that members of the public be given a reasonable opportunity to be heard on a proposition before a board or commission; and

WHEREAS, Section 286.0114, *Florida Statutes*, sets forth guidelines for rules and policies that govern the public’s opportunity to be heard at a public meeting; and

WHEREAS, the District’s Board of Supervisors (“Board”) finds that it is in the best interests of the District to adopt by resolution a policy (“Public Comment Policy”) for immediate use and application.

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

SECTION 1. DESIGNATING PUBLIC COMMENT PERIODS. The District’s Chairperson, his or her designee, or such other person conducting a District meeting (“Presiding Officer”), shall ensure that there is at least one (1) period of time (“Public Comment Period”) in the District’s meeting agenda whereby the public has an opportunity to be heard on propositions before the Board, as follows:

A. An initial Public Comment Period shall be provided at the start of each Board meeting before consideration of any propositions by the Board. In the event there are propositions that come before the Board that are not listed on the agenda, the Presiding Officer shall announce a Public Comment Period on such proposition prior to the Board voting on the matter.

B. Speakers shall be permitted to address any agenda item during the initial Public Comment Period. Speakers shall be permitted to address any non-agenda matters of

personal or general concern during the Public Comment Period provided after the conclusion of the District's business items.

C. Individuals wishing to make a public comment are limited to three (3) minutes per person. Potential speakers may not assign his/her three (3) minutes to extend another speaker's time.

D. The Presiding Officer may extend or reduce the time periods set forth herein in order to facilitate orderly and efficient District business, provided however that a reasonable opportunity for public comment shall be provided consistent with the requirements of Section 286.0114, *Florida Statutes*. The Presiding Officer may also elect to set and announce additional Public Comment Periods if he or she deems it appropriate.

SECTION 2. DESIGNATING A PROCEDURE TO IDENTIFY INDIVIDUALS SEEKING TO BE HEARD. Unless otherwise directed and declared by the Presiding Officer, individuals seeking to be heard on propositions before the Board shall identify themselves by a show of hands at the beginning of each Public Comment Period, as announced by the Presiding Officer. Alternatively, in the event that public attendance is high, and/or if otherwise in the best interests of the District in order to facilitate efficient and orderly District business, the Presiding Officer may require individuals to complete speaker cards that include the individual's name, address, the proposition on which they wish to be heard, the individual's position on the proposition (i.e., "for," "against," or "undecided"), and if appropriate, to indicate the designation of a representative to speak for the individual or the individual's group. In the event large groups of individuals desire to speak, the Presiding Officer may require each group to designate a representative to speak on behalf of such group. Any attorney hired to represent an individual or company's interests before the Board shall notify the Board of such representation prior to proving any public comment.

Sections 1 and 2 herein shall be deemed to apply only to District Board meetings, but the Presiding Officer of a District workshop in his or her discretion may elect to apply such Sections to District workshops.

SECTION 3. PUBLIC DECORUM. The following policies govern public decorum at public meetings and workshops:

A. Each person addressing the Board shall proceed to the place assigned for speaking and should state his or her name and address in an audible tone of voice for the public record.

B. All remarks shall be addressed to the Board as a body and not to any member thereof or to any staff member. No person other than a Board Supervisor or District staff member shall be permitted to enter into any discussion with an individual speaker while he or she has the floor, without the permission of the Presiding Officer.

C. Nothing herein shall be construed to prohibit the Presiding Officer from maintaining orderly conduct and proper decorum in a public meeting. Speakers shall refrain from disruptive behavior and from making vulgar or threatening remarks. Speakers

shall refrain from launching personal attacks against any Board Supervisor, District staff member, or member of the public. The Presiding Officer shall have the discretion to remove any speaker who disregards these policies from the meeting.

D. In the case that any person is declared out of order by the Presiding Officer and ordered expelled, and does not immediately leave the meeting facilities, the following steps may be taken:

- i. The Presiding Officer may declare a recess;
- ii. The Presiding Officer may contact the local law enforcement authority; or
- iii. In case the person does not remove himself or herself from the meeting, the Presiding Officer may request that he or she be placed under arrest by local law enforcement authorities for violation of Section 871.01, *Florida Statutes*, or other applicable law.

SECTION 4. EXCEPTIONS. The Board recognizes and may apply all applicable exceptions to Section 286.0114, *Florida Statutes*, including those set forth in Section 286.0114(3), *Florida Statutes*, and other applicable law. Additionally, the Presiding Officer may alter the procedures set forth in this Public Comment Policy for public hearings and other special proceedings that may require a different procedure under Florida law.

SECTION 5. SEVERABILITY. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION I

RESOLUTION 2024-19

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT ADOPTING A POLICY FOR REIMBURSEMENT OF DISTRICT TRAVEL EXPENSES; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely in the City of Deland, Florida; and

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

WHEREAS, Section 112.061, *Florida Statutes*, establishes standard travel reimbursement rates, procedures and limitations applicable to all public officers, employees, and authorized persons whose travel is authorized and paid for by a public agency; and

WHEREAS, the District desires to adopt a Policy for Reimbursement of District Travel Expenses attached as **Exhibit A** (the “Travel Reimbursement Policy”) pursuant to the provisions of Section 112.061, *Florida Statutes*; and

WHEREAS, the Board finds that it is in the best interest of the District to adopt by resolution the Travel Reimbursement Policy for immediate use and application.

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

SECTION 1. The District hereby adopts the Travel Reimbursement Policy, attached hereto as **Exhibit A**.

SECTION 2. If any provision of this Resolution or the Travel Reimbursement Policy 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 December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A

KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT POLICY FOR REIMBURSEMENT OF DISTRICT TRAVEL EXPENSES

1.0 GENERAL PROVISIONS.

- 1.1** The usual, ordinary, and incidental travel expenditures necessarily incurred by the District board members, employees, consultants, or advisors in the performance of their official duties shall be reimbursed by the Kepler Road Community Development District (the “District”).
- 1.2** Except as otherwise provided, prior authorization for travel is not required, but reimbursable expenses will be limited to those expenses incurred in the performance of official duties undertaken in connection with such public purposes as the District has been authorized by law to perform.
- 1.3** All claims submitted for reimbursement must be accompanied by a written statement that they are true and correct as to every material matter.

2.0 TRANSPORTATION.

- 2.1** All travel must be by a reasonably direct or usually traveled route. In the event a person travels by an indirect route for his/her own convenience, any additional cost shall be borne by the traveler and reimbursement for expenses shall be based on the usually traveled route.
- 2.2** Commercial travel shall be by the most economical method, tourist or coach class. First class rates will be paid only in the event that a statement is attached to the claim certifying that tourist or coach seating was unavailable.
- 2.3** When available without penalty for cancellation, travelers should take advantage of discount fares.
- 2.4** Transportation by common carrier when traveling on official business and paid for by the traveler shall be substantiated by a receipt.
- 2.5** Rental car expenses shall be substantiated by a copy of the rental agreement.
- 2.6** Whenever travel is by a privately-owned vehicle, the traveler shall be entitled to a mileage allowance at the fixed rate per mile as established by the Legislature in Section 112.061, *Florida Statutes*. Should the State of Florida increase the mileage allowance specified in Section 112.061, *Florida Statutes*, the District shall, without further action, be permitted to reimburse travelers at the increased rate. As of January 1, 2023, the mileage rate is 65.5 cents per mile.

- 2.7** All mileage shall be from point of origin to point of destination. When travel commences from a location other than the traveler's official headquarters, mileage shall be calculated on the basis of the distance from the headquarters city to the point of destination, unless the actual distance is shorter. Vicinity mileage necessary for conduct of official business is allowable, but must be identified as a separate item on the claim for reimbursement of expenses.
- 2.8** No traveler shall be allowed either mileage or transportation expense when he/she is gratuitously transported by another person, or when he/she is transported by another traveler who is entitled to mileage or transportation expense. However, a traveler on a private aircraft shall be reimbursed the actual amount charged and paid for his/her fare for such transportation up to the cost of a commercial airline ticket for the same flight if one is available, even though the owner or pilot of the aircraft is also entitled to transportation expense for the same flight.

3.0 INCIDENTAL EXPENSES.

- 3.1** Reasonable travel-related expenses for meals, lodging, gratuities, taxi fares, tolls, parking fees, and business-related telephone, telegraph, and facsimile charges shall also be reimbursed if substantiated by receipts.
- 3.2** Registration fees and other actual and necessary expenses for conventions, conferences, and seminars which will serve a direct public purpose related to District activities will be considered reimbursable if persons attending such meetings receive prior approval. In the event room or meal expenses are included in the registration fee, reimbursement for these expenses will be reduced accordingly.

SECTION J

RESOLUTION 2024-20

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated in the City of Deland, Florida; and

WHEREAS, Chapter 218, *Florida Statutes*, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the “Board”) accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

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

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, *Florida Statutes*, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

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. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

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 December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary / Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

**KEPLER ROAD
COMMUNITY
DEVELOPMENT DISTRICT**

Prompt Payment Policies and Procedures
In Accordance With the Local Government Prompt Payment Act
Chapter 218, Part VII, Florida Statutes

_____, 2023

Kepler Road Community Development District
Prompt Payment Policies and Procedures

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I. Purpose

In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) (“PPA”), the purpose of the Kepler Road Community Development District (“District”) Prompt Payment Policies and Procedures (“Policies & Procedures”) is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. Scope

These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. Definitions

A. Agent

The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. Construction Services

All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. Contractor or Provider of Construction Services

The entity or individual that provides Construction Services through direct contract with the District.

D. Date Stamped

Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the Agent receives

an invoice or payment request, but fails to timely or physically mark on the document the date received, "Date Stamped" shall mean the date of actual receipt by the Agent.

E. Improper Invoice

An invoice that does not conform to the requirements of a Proper Invoice.

F. Improper Payment Request

A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. Non-Construction Goods and Services

All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. Proper Invoice

An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. Proper Payment Request

A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. Provider

Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. Purchase

The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. Vendor

Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. Proper Invoice/Payment Request Requirements

A. General

Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent's confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors ("Board") or when provided for in the applicable agreement.

B. Sales Tax

Providers should not include sales tax on any invoice or payment request. The District's current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. Federal Identification and Social Security Numbers

Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone (407) 841-5524, email gflint@gmscfl.com).

D. Proper Invoice for Non-Construction Goods and Services

All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number
5. The "Bill To" party must be the District or the Board, or other entity approved

in writing by the Board of the District Manager

6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
 - a. A complete item description
 - b. Quantity purchased
 - c. Unit price(s)
 - d. Total price (for each item)
 - e. Total amount of invoice (all items)
 - f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
 - a. Itemized description of services performed
 - b. The location and date of delivery of the services to the District
 - c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
 - d. Itemization of other direct, reimbursable costs (including description and amount)
 - e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
 - i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
 - ii. Paid receipt
 - iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. Proper Payment Request Requirements for Construction Services

Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. Submission of Invoices and Payment Requests

The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District's Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. Mailing and Drop Off Address

Kepler Road Community Development District

c/o Governmental Management Services – Central Florida, LLC
219 East Livingston Street
Orlando, Florida 32801

2. **Email Address**
gflint@gmscfl.com

VI. Calculation of Payment Due Date

A. Non-Construction Goods and Services Invoices

1. Receipt of Proper Invoice

Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. Receipt of Improper Invoice

If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:

- a. On which delivery of personal property is fully accepted by the District;
- b. On which services are completed and accepted by the District;
- c. On which the contracted rental period begins (if applicable); or
- d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. Rejection of an Improper Invoice

The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

The District's rejection of an Improper Invoice must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and
3. State actions necessary to correct the Improper Invoice.

If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. Payment of Undisputed Portion of Invoice

If the District disputes a portion of an invoice, the undisputed portion shall be paid by the date required under the contract or by twenty (20) business days after receipt of the request, whichever is earlier.

B. Payment Requests for Construction Services

1. Receipt of Proper Payment Request

The time at which payment is due for Construction Services from the District is as follows:

a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. Receipt and Rejection of Improper Payment Request

a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

b. The District's rejection of the Improper Payment Request must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and
3. State actions necessary to correct the Improper Invoice.

c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. Payment of Undisputed Portion of Payment Request

If the District disputes a portion of a payment request, the undisputed portion shall be paid by the date required under the contract or by twenty (20) business days after receipt of the request, whichever is earlier.

VII. Resolution of Disputes

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. Dispute between the District and a Contractor

If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. Dispute Resolution Procedures

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.
2. Within thirty (30) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than forty-five (45) days after the date on which the last-submitted payment request or invoice is Date Stamped.
3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third

parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars (\$10,000).
5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.
6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. Purchases Involving Federal Funds or Bond Funds

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. Requirements for Construction Services Contracts – Project Completion; Retainage

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. Late Payment Interest Charges

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.).

A. Related to Non-Construction Goods and Services

All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate provided in Section 218.74(4), Fla. Stat. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.).

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. Related to Construction Services

All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of two percent (2%) per month, or the rate specified by agreement, whichever is greater. (§ 218.735 (9), Fla. Stat.). The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. (§ 218.735 (9), Fla. Stat.). An overdue period of less than one (1) month is considered as one (1) month in computing interest.

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. Report of Interest

If the total amount of interest paid during the preceding fiscal year exceeds \$250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

SECTION K

MEMORANDUM

TO: KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT BOARD OF SUPERVISORS

FROM: MICHELLE K. RIGONI

DATE: December 11, 2023

RE: PUBLIC RECORDS RETENTION

The purpose of this memorandum and attached resolutions are to update and/or establish the District's Records Retention Policy, including to reflect management of transitory messages and establishment that the electronic record is considered the official record.

The District essentially has two options to ensure compliance with applicable Records Retention laws.

First, the District can adopt the Florida Records Retention Schedules modified to ensure the District is also retaining the records required by federal law and the trust indenture. This option allows for the timely destruction of records while ensuring that the District's policy is in compliance with state and federal laws. Kutak Rock has prepared a resolution that implements this option, and it is attached hereto as **Option 1**.

Second, a District can adopt the Florida Records Retention Schedules as written and adopt a policy that states that the District will not be destroying any records at this point in time, with the exception of Transitory Messages. Kutak Rock has prepared a resolution that implements this option, and it is attached hereto as **Option 2**.

It is important to note that the District could change its Records Retention policy at a later date so long as the District's amendment was consistent with the notice and hearing provisions found in Chapter 190.

OPTION 1

RESOLUTION 2024-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT PROVIDING FOR THE APPOINTMENT OF A RECORDS MANAGEMENT LIAISON OFFICER; PROVIDING THE DUTIES OF THE RECORDS MANAGEMENT LIAISON OFFICER; ADOPTING A RECORDS RETENTION POLICY; DETERMINING THE ELECTRONIC RECORD TO BE THE OFFICIAL RECORD; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*; 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, Section 257.36(5), *Florida Statutes*, requires the District to establish and maintain an active and continuing program for the economical and efficient management of records and to provide for the appointment of a records management liaison officer (“Records Management Liaison Officer”); and

WHEREAS, the District desires for the Records Management Liaison Officer to be an employee of the District or an employee of the District Manager; and

WHEREAS, the District desires to authorize the District’s records custodian to appoint a Records Management Liaison Officer, which may or may not be the District’s records custodian; and

WHEREAS, the District desires to prescribe duties of the Records Management Liaison Officer and provide for the assignment of additional duties; and

WHEREAS, the District’s Board of Supervisors (“Board”) finds that it is in the best interests of the District to adopt by resolution a Records Retention Policy (the “Policy”) for immediate use and application; and

WHEREAS, the District desires to provide for future amendment of the Records Retention Policy.

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

SECTION 1. The District hereby authorizes the District’s records custodian to appoint a Records Management Liaison Officer and report such appointment to the appropriate State of Florida agencies. A Records Management Liaison Officer shall be an employee of the District or

the District Manager. The Board, and the District's records custodian, shall each have the individual power to remove the Records Management Liaison Officer at any time for any reason. Immediately following the removal or resignation of a Records Management Liaison Officer, the District's records custodian shall appoint a replacement Records Management Liaison Officer.

SECTION 2. The duties of the Records Management Liaison Officer shall include the following:

- A.** Serve as the District's contact with the Florida Department of State, State Library and Archives of Florida;
- B.** Coordinate the District's records inventory;
- C.** Maintain records retention and disposition forms;
- D.** Coordinate District records management training;
- E.** Develop records management procedures consistent with the attached Records Retention Policy, as amended;
- F.** Participate in the development of the District's development of electronic record keeping systems;
- G.** Submit annual compliance statements;
- H.** Work with the Florida Department of State, State Library and Archives of Florida to establish individual retention schedules for the District, from time to time and as may be necessary; and
- I.** Such other duties as may be assigned by the Board or the District's records custodian in the future.

SECTION 3. The District hereby adopts as its Records Retention Policy the applicable provisions of Section 257.36(5), *Florida Statutes*, the rules adopted by the Division of Library and Information Services of the Department of State ("Division") pursuant to Section 257.36, *Florida Statutes*, and the General Records Schedules established by the Division. However, the District will retain certain records longer than required by the General Records Schedules established by the Division as set forth in **Exhibit A**. To the extent the above statute, rules or schedules are amended or supplemented in the future, the District's Records Retention Policy shall automatically incorporate such amendment or supplement provided that such automatic amendment shall not reduce the retention times set forth in **Exhibit A**. The Records Retention Policy shall remain in full force and effect until such time as the Board amends the Policy.

SECTION 4. In accordance with section 668.50, Florida Statutes, and section 119.01, Florida Statutes, the Board finds that the electronic record shall be considered the official record and any paper originals are hereby duplicates which may be disposed of unless required to be preserved by any applicable statute, rule or ordinance.

SECTION 5. If any provision of this resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 6. This resolution shall become effective upon its passage; shall replace, supplant, and supersede any prior policy or resolution of the District regarding records retention; and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary / Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A: District Amendments to General Records Schedules Established by the Division

Exhibit A

District Amendments to General Records Schedules established by the Division

ADVERTISEMENTS: LEGAL

The District shall retain mailed and published legal advertisements, and corresponding affidavits, relating to proceedings under uniform method of collection of debt assessments permanently. The District shall retain mailed and published legal advertisements, and corresponding affidavits, relating to the levy of assessments securing bonds for five (5) fiscal years provided applicable audits have been released, or until three (3) calendar years after related bonds are redeemed, whichever is later.

AUDITS: INDEPENDENT

The District shall retain the record copy of independent audits for ten (10) fiscal years or until three (3) calendar years after all related bonds are redeemed, whichever is later.

DISBURSEMENT RECORDS: DETAIL

The District shall retain the record copy of disbursement records relating to the use of bonds for five (5) fiscal years provided applicable audits have been released or until three (3) calendar years after related bonds are redeemed, whichever is later.

DISBURSEMENT RECORDS: SUMMARY

The District shall retain the record copy of disbursement records relating to the use of bonds for ten (10) fiscal years provided applicable audits have been released or until three (3) calendar years after related bonds are redeemed, whichever is later.

FINANCIAL REPORTS: LOCAL GOVERNMENT ANNUAL REPORTS

The District shall retain the record copy of disbursement records relating to the use of bonds for ten (10) fiscal years provided applicable audits have been released or until three (3) calendar years after all related bonds are redeemed, whichever is later.

INCIDENT REPORT FILES

The District shall retain incident reports for five (5) anniversary years from the date of the incident.

MINUTES: OFFICIAL MEETINGS (PRELIMINARY/AUDIO RECORDINGS/VIDEO RECORDINGS)

The District shall retain audio recordings of board of supervisor meetings for five (5) calendar years after adoption of the official minutes.

PROJECT FILES: CAPITAL IMPROVEMENT

The District shall retain the record copy of project files for projects funded with bonds for ten (10) fiscal years after completion of the project provided applicable audits have been released or until three (3) calendar years after all related bonds are redeemed, whichever is later.

REAL PROPERTY RECORDS: CONDEMNATION/DEMOLITION

The District shall retain the record copy of project files for condemnation/demolition projects funded with bonds for five (5) anniversary years after final action or until three (3) calendar years after all related bonds are redeemed, whichever is later. The record copy of deeds and easements shall be kept permanently.

REAL PROPERTY RECORDS: PROPERTY ACQUIRED

The District shall retain the record copy of documents related to property acquisitions funded with bonds for three (3) fiscal years after final disposition of the property provided applicable audits have been released or until three (3) calendar years after all related bonds are redeemed, whichever is later. The record copy of deeds and easements shall be kept permanently.

OPTION 2

RESOLUTION 2024-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT PROVIDING FOR THE APPOINTMENT OF A RECORDS MANAGEMENT LIAISON OFFICER; PROVIDING THE DUTIES OF THE RECORDS MANAGEMENT LIAISON OFFICER; ADOPTING A RECORDS RETENTION POLICY; DETERMINING THE ELECTRONIC RECORD TO BE THE OFFICIAL RECORD; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (“District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*; 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, Section 257.36(5), *Florida Statutes*, requires the District to establish and maintain an active and continuing program for the economical and efficient management of records and to provide for the appointment of a records management liaison officer (“Records Management Liaison Officer”); and

WHEREAS, the District desires for the Records Management Liaison Officer to be an employee of the District or an employee of the District Manager; and

WHEREAS, the District desires to authorize the District’s records custodian to appoint a Records Management Liaison Officer, which may or may not be the District’s records custodian; and

WHEREAS, the District desires to prescribe duties of the Records Management Liaison Officer and provide for the assignment of additional duties; and

WHEREAS, the District’s Board of Supervisors (“Board”) finds that it is in the best interests of the District to adopt by resolution a Records Retention Policy (the “Policy”) for immediate use and application; and

WHEREAS, the District desires to provide for future amendment of the Records Retention Policy.

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

SECTION 1. The District hereby authorizes the District’s records custodian to appoint a Records Management Liaison Officer and report such appointment to the appropriate State of Florida agencies. A Records Management Liaison Officer shall be an employee of the District or the District Manager. The Board, and the District’s records custodian, shall each have the

individual power to remove the Records Management Liaison Officer at any time for any reason. Immediately following the removal or resignation of a Records Management Liaison Officer, the District's records custodian shall appoint a replacement Records Management Liaison Officer.

SECTION 2. The duties of the Records Management Liaison Officer shall include, but not be limited to, the following:

- A.** Serve as the District's contact with the Florida Department of State, State Library and Archives of Florida;
- B.** Coordinate the District's records inventory;
- C.** Maintain records retention and disposition forms;
- D.** Coordinate District records management training;
- E.** Develop records management procedures consistent with the attached Records Retention Policy, as amended;
- F.** Participate in the District's development of electronic record keeping systems.
- G.** Submit annual compliance statements;
- H.** Work with the Florida Department of State, State Library and Archives of Florida to establish individual retention schedules for the District, from time to time and as may be necessary; and
- I.** Such other duties as may be assigned by the Board or the District's records custodian in the future.

SECTION 3. The District hereby adopts as its Records Retention Policy the applicable provisions of Section 257.36(5), *Florida Statutes*, the rules adopted by the Division of Library and Information Services of the Department of State ("Division") pursuant to Section 257.36, *Florida Statutes*, and the General Records Schedules established by the Division. However, the District hereby extends the minimum retention guidelines contained in the General Records Schedules so that the District will retain all public records relating to District business until the Board of Supervisors amends the Records Retention Policy to address the disposition of the same. Notwithstanding the foregoing, the District shall only retain Transitory Messages until the Transitory Message is obsolete, superseded or administrative value is lost in accordance with *the General Records Schedule for State and Local Government Agencies, Item #146*, as incorporated by reference in Rule 1B-24.003(1)(a), Florida Administrative Code. To the extent the above statute, rules, or schedules are amended or supplemented in the future, the District's Records Retention Policy shall automatically incorporate such amendment or supplement provided that such automatic change does not permit the disposition of District records without further action of the Board. The Records Retention Policy shall remain in full force and effect until such time as the Board amends the Policy.

SECTION 4. In accordance with section 668.50, Florida Statutes, and section 119.01, Florida Statutes, the Board finds that the electronic record shall be considered the official record and any paper originals are hereby duplicates which may be disposed of unless required to be preserved by any applicable statute, rule or ordinance.

SECTION 5. If any provision of this resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 6. This resolution shall become effective upon its passage; shall replace, supplant, and supersede any prior policy or resolution of the District regarding records retention; and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary / Assistant Secretary

Chairperson, Board of Supervisors

Composite Exhibit A: General Records Schedules, GS1-SL and GS3

Composite Exhibit A

General Records Schedules Established by the Division (GS1-SL and GS3)

[attach, if Option 2 adopted]

SECTION M

RESOLUTION 2024-22

A RESOLUTION BY THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT DESIGNATING THE PRIMARY ADMINISTRATIVE OFFICE AND PRINCIPAL HEADQUARTERS OF THE DISTRICT AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Florida; and

WHEREAS, the District desires to designate its primary administrative office as the location where the District’s public records are routinely created, sent, received, maintained, and requested, for the purposes of prominently posting the contact information of the District’s Records Custodian in order to provide citizens with the ability to access the District’s records and ensure that the public is informed of the activities of the District in accordance with Chapter 119, *Florida Statutes*; and

WHEREAS, the District additionally desires to specify the location of the District’s principal headquarters for the purpose of establishing proper venue under the common law home venue privilege applicable to the District.

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

SECTION 1. The District’s primary administrative office for purposes of Chapter 119, *Florida Statutes*, shall be located at Governmental Management Services – Central Florida, LLC, 219 East Livingston Street, Orlando, Florida 32801.

SECTION 2. The District’s principal headquarters for purposes of establishing proper venue are in Volusia County, Florida.

SECTION 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 11th day of December, 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION N

RESOLUTION 2024-23

A RESOLUTION BY THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT DESIGNATING THE LOCATION OF THE LOCAL DISTRICT RECORDS OFFICE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the City of Deland, Volusia County Florida; and

WHEREAS, the District is statutorily required to designate a local district records office location for the purposes of affording citizens the ability to access the District’s records, promoting the disclosure of matters undertaken by the District, and ensuring that the public is informed of the activities of the District in accordance with Chapter 119 and Section 190.006(7), *Florida Statutes*; and

WHEREAS, District records are available for public review and inspection at the offices of Governmental Management Services - Central Florida, LLC, 219 East Livingston Street, Orlando, Florida 32801.

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

SECTION 1. The District’s local records office shall be located at: _____

SECTION 2. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION O

AGREEMENT BETWEEN THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT AND BBM AMERICA, LLC, D/B/A RE-ALIGN WEB DESIGN, FOR WEBSITE SERVICES

THIS AGREEMENT (“**Agreement**”) is entered into as of this ____ day of _____ 2023, by and between:

KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government, established and existing pursuant to Chapter 190, *Florida Statutes*, with a mailing address of 219 East Livingston Street, Orlando, Florida 32801 (the “**District**”), and

BBM AMERICA, LLC D/B/A RE-ALIGN WEB DESIGN, a Florida limited liability company, with a mailing address of 592 West Palm Valley Drive, Oviedo, Florida 32765 (“**Contractor**”).

RECITALS

WHEREAS, the District is a local unit of special-purpose government, created and existing pursuant to Chapter 190, *Florida Statutes*; and

WHEREAS, pursuant to section 189.069, *Florida Statutes*, the District must maintain an official website containing, at minimum, the statutorily required information (“**Website**”); and

WHEREAS, the District has a need to obtain a qualified independent contractor to build a new Website compliant with the accessibility requirements of Title II of the Americans with Disabilities Act (“**ADA**”), which ADA accessibility requirements and standards may change from time to time, all as more particularly described herein and in the proposal attached hereto as **Exhibit A** and made a part herein (together, the “**Services**”); and

WHEREAS, Contractor represents and warrants to the District that it is qualified, willing and capable of providing the Services; and

WHEREAS, the District and Contractor desire to enter into this Agreement for the purposes stated herein and the District and Contractor warrant and agree that they have all right, power and authority to enter into and be bound by this Agreement.

NOW, THEREFORE, in consideration of the recitals, agreements and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. RECITALS. The recitals stated above are true and correct and by this reference are incorporated herein and form a material part of this Agreement.

SECTION 2. SCOPE OF WORK. Contractor shall provide Services in accordance with the terms provided in this Agreement and in **Exhibit A**. Specifically, Services include the following:

A. NEW WEBSITE BUILD. Contractor shall build a new Website, which shall meet all compliance requirements under the ADA and compliance requirements based on federally recommended ADA best practices for state and local governments as promulgated by federal law and rulemaking, including but not limited to Web Content Accessibility Guidelines 2.1 Level AA or better, as the same may be amended and updated from time to time (as amended and updated from time to time, “WCAG”). Specifically, Contractor shall, at a minimum:

- i. provide an ADA compliant Website that meets, at minimum, the currently effective WCAG standards;
- ii. the Website shall be completed and delivered within thirty (30) days of the effective date of this Agreement.
- iii. cross-check compatibility of the Website with various web applications, including but not limited to mobile phones, tablets, laptop computers and desktop computers, and braille readers and other assistive technologies for accessibility;
- iv. provide a webpage containing website accessibility policy that includes a commitment to accessibility for persons with disabilities, the District’s engagement of Contractor for ADA specific services in an effort to create and maintain the Website ADA compliant, accessibility standard used and applied to the Website (which shall be at a minimum WCAG), and contact information of the District Manager or their designee (email and phone number) for users encountering any problems (collectively, “**Accessibility Policy**”);
- v. provide any and all other effort reasonably necessary to allow the District to receive the maximum benefit of the Services contemplated by this Agreement and **Exhibit A**, recognizing the District is relying on Contractor’s expertise for Website design/best practices in accordance with the ADA.

B. ADDITIONAL SERVICES. In the event that the District desires additional work or services, Contractor agrees to negotiate in good faith to undertake such additional work or services. Upon successful negotiation regarding the terms of the additional work, including scope and compensation, the parties shall agree in writing to a work order, addendum, addenda, or change order to this Agreement prior to commencement of any such additional work. The following is a non-exhaustive list of possible additional services that the District may request of Contractor:

- i. performing technological and human audit(s) of the Website;
- ii. providing a point of contact to respond to public’s requests for Website accommodation;
- iii. converting documents for a public records requests received by the District;
- iv. providing assistive support to District staff, as requested;

v. complete ADA testing and provide Contractor's ADA compliance shield, seal or certification for display on the Website ("**Compliance Shield**") and update same from time to time, as necessary; and

vi. providing any other ADA recommended compliance services requested by the District that Contractor is capable of performing.

C. Contractor shall be solely responsible for the means, manner and methods by which its duties, obligations and responsibilities are met to the satisfaction of the District and in accordance with this Agreement. Contractor shall use industry best practices and procedures when carrying out the Services.

SECTION 3. COMPENSATION. As compensation for the Services, the District agrees to pay Contractor in accordance with the following terms:

A. NEW WEBSITE BUILD. For performance of the Services as provided in this Agreement, the District shall pay a one-time fee of **One Thousand Seven Hundred Fifty Dollars (\$1,750.00)**. Contractor shall invoice the District upon completion of the work provided in Section 2 of this Agreement.

B. INVOICES; PAYMENT. Contractor shall maintain records conforming to usual accounting practices. Further, Contractor shall render each invoice to the District in writing, which shall be delivered promptly upon completion of each Service. Each invoice shall contain, at a minimum, the District's name, Contractor's name, the invoice date, an invoice number, an itemized listing of all costs billed on each invoice with a sufficient description of each allowing the District to approve each cost, the time frame within which the Services were provided, and the address or bank information to which payment is to be remitted. Consistent with Florida's Prompt Payment Act, section 218.70, *et seq.*, *Florida Statutes*, the invoices shall be due and payable within forty-five (45) days of receipt by the District.

SECTION 4. TERM AND TERMINATION.

A. TERM. This Agreement shall become effective upon the date and year first written above and shall be in effect until terminated by either party in accordance with the terms of this Agreement, or upon completion of the Services and expiration of the Warranty Period (including the time necessary to correct any defects, if applicable).

B. TERMINATION. The District agrees that Contractor may terminate this Agreement for cause by providing sixty (60) days' written notice of termination to the District; provided, however, that the District shall be provided a reasonable opportunity to cure any failure under this Agreement. Contractor agrees that the District may terminate this Agreement immediately for cause by providing written notice of termination to Contractor. Contractor agrees that the District may terminate this Agreement without cause, provided that the District shall provide thirty (30) days' written notice of termination without cause. Upon any termination of this Agreement, Contractor shall be entitled to payment for all Services rendered up until the effective termination

of this Agreement, subject to whatever claims or offsets the District may have against Contractor as the sole means of recovery for termination.

SECTION 5. REPRESENTATIONS, WARRANTIES AND COVENANTS. Contractor represents, warrants, and covenants that (a) the Services will conform to the requirements provided in Section 2 herein and **Exhibit A**; (b) the Services shall be performed by qualified personnel in a professional, prompt, diligent, good, safe and workmanlike manner in accordance with all laws, industry standards, and all applicable ADA and other website accessibility compliance standards, including but not limited to currently-effective WCAG standards and other federally recommended guidelines; and (c) neither the Services nor any product provided by Contractor shall infringe, misappropriate, or otherwise violate the intellectual property rights of any third-party. Contractor hereby agrees to provide a “Warranty Period” of thirty (30) days, starting from the date upon which Contractor completes the Services and delivers the “Deliverables” (as identified in Contractor’s proposal attached hereto) to the District. To the extent that any defects regarding the “Deliverables” are found and reported to the Contractor within the Warranty Period, the Contractor shall promptly correct such defect(s) but no later than within fifteen (15) days of such notice.

SECTION 6. INTELLECTUAL PROPERTY.

A. CONTRACTOR MATERIALS. Except as provided herein, Contractor shall retain all right, title, and interest in and to (i) all patents, trademarks, service marks, copyrights, and other intellectual property or proprietary rights of Contractor used in or otherwise associated with the Services, and other materials provided to the District hereunder; and (ii) all trade secrets, technical specifications and data to the extent they are intellectual property, and inventions which are authored, conceived, devised, developed, reduced to practice, or otherwise performed by Contractor which arise out of Contractor’s performance of the Services, none of which shall be deemed a “work made for hire” under the Copyright Act of 1976 (collectively, “**Contractor Materials**”), and nothing contained herein shall be construed to restrict, impair, transfer, license, convey, or otherwise alter or deprive Contractor of any of its intellectual property and proprietary interests associated therewith. Subject to the foregoing, Contractor grants to the District a non-exclusive, non-transferable worldwide perpetual limited right and license to access and use the Contractor Materials in connection with the ordinary and intended use by the District as contemplated in this Agreement, including viewing, downloading and printing the Contractor Materials for the District’s use, and without in any case removing Contractor’s copyright, trademark or other intellectual property ownership notices.

B. THE DISTRICT MATERIALS; PUBLICITY AND TRADEMARKS. The District shall own the Website, domain name, all e-mail addresses, and all website and e-mail content, under all circumstances. In the event of a termination of this Agreement for any reason, Contractor shall take all necessary steps to transfer, or otherwise allow the District to retain, such website, domain name, e-mail addresses and content of the same. Additionally, to the extent applicable, Contractor shall take commercially reasonable precautions consistent with industry standards to protect confidential information, including, e.g., credit card information and other sensitive information protected under Florida’s Public Records Laws. Contractor shall immediately notify the District of any breach or loss of data, and take such steps as are reasonably necessary to address any such issue. Except as provided herein, the District shall retain all right, title, and interest in and to all intellectual property

of the District provided or made available to the Contractor in connection with Contractor's Services (collectively, "**District Materials**") and nothing contained herein shall be construed to restrict, impair, transfer, license, convey, or otherwise alter or deprive the District of any of its intellectual property or other proprietary interests associated therewith, if any. Subject to the foregoing, the District grants to Contractor a non-exclusive, non-transferable worldwide limited right and license to access and use such District Materials in connection with the provision of the Services as contemplated by this Agreement. Further, the District permits Contractor to identify the District as a customer of Contractor in Contractor's marketing materials (including using the District's name and logo for such limited purposes). The District further acknowledges and agrees that for Contractor to perform the Services, it must, in some cases, give Contractor remote access to areas behind log-ins that are to be audited hereunder, including, without limitation to content management systems and/or servers (collectively, "**System**"), and agrees that it will furnish to Contractor all necessary information and/or user names and passwords required to do so. Contractor agrees to follow commercially reasonable security policies for accessing the District's System including any specific security procedures as may be communicated to Contractor by the District prior to Contractor accessing the System. Contractor shall on its own or through coordination with the District's Website provider, create a back-up copy of all data that may be affected by Contractor's access to the System.

C. RIGHT TO DISPLAY CONTRACTOR'S COMPLIANCE SHIELD / ACCESSIBILITY POLICY. Pursuant to this Agreement, the Contractor shall provide the District with applicable Compliance Shield(s) and customized Accessibility Policy, which the District shall display on its Websites and web applications. The District is expressly prohibited from using the Compliance Shield for any purpose not specifically authorized by this Agreement, and in no event may use such Compliance Shield for or on behalf of any other party or in connection with any domain name and/or organization name other than those being scanned or serviced in connection with the Services.

SECTION 7. PUBLIC RECORDS. Contractor understands and agrees that all documents or on-line content of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, Contractor agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to section 119.0701, *Florida Statutes*. Contractor acknowledges that the designated public records custodian for the District is **George Flint** ("**Public Records Custodian**"). Among other requirements and to the extent applicable by law, Contractor shall 1) keep and maintain public records required by the District to perform the Work; 2) upon request by the Public Records Custodian, provide the District with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if Contractor does not transfer the records to the Public Records Custodian of the District; and 4) upon completion of the contract, transfer to the District, at no cost, all public records in Contractor's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by Contractor, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records

stored electronically must be provided to the District in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (407) 841-5524, GFLINT@GMSCFL.COM, OR AT 219 EAST LIVINGSTON STREET, ORLANDO, FLORIDA 32801.

SECTION 8. INDEMNITY.

A. Contractor agrees to defend, indemnify, and hold harmless the District and its officers, agents, staff, employees, successors, assigns, members, affiliates, or representatives from any and all liability, claims, actions, suits, liens, demands, costs, interest, expenses, damages, penalties, fines, or judgments against the District, or loss or damage, whether monetary or otherwise, arising out of, wholly or in part by, or in connection with the Services to be performed by Contractor, its subcontractors, its employees and agents in connection with this Agreement, including litigation, mediation, arbitration, appellate, or settlement proceedings with respect thereto. This specifically includes a lawsuit based on lack of ADA compliance in accordance with currently-effective WCAG standards of the "Deliverables" identified in Contractor's proposal attached hereto. Contractor further agrees that nothing herein shall constitute or be construed as a waiver of the District's limitations on liability contained in section 768.28, *Florida Statutes*, or other statute.

B. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, fines, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorneys' fees, paralegal fees and expert witness fees and costs (incurred in court, out of court, on appeal, or in bankruptcy proceedings) and any interest, all as actually incurred.

C. In the event that Contractor assigns its obligations under this Agreement to a third party, Contractor acknowledges and agrees that Contractor shall require such third party to provide indemnification to the District consistent with the requirements of this Section 8.

SECTION 9. SCRUTINIZED COMPANIES STATEMENT. Contractor certifies that it is not in violation of section 287.135, *Florida Statutes*, and is not prohibited from doing business with the District under Florida law, including but not limited to Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. If Contractor is found to have submitted a false statement, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, or is now or in the future on the Scrutinized Companies that Boycott Israel List, or engaged in a boycott of Israel, the District may immediately terminate the Contract.

SECTION 10. GENERAL PROVISIONS.

A. CONFLICTS. The terms of this Agreement and **Exhibit A** are intended to complement each other, and to the extent they conflict, the terms of **Exhibit A** shall control only to the extent that such provisions provide clarifications on Services and materials to be provided by Contractor pursuant to **Exhibit A**; in all other respects, the provisions of this Agreement shall control.

B. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of the District and Contractor, both the District and Contractor have complied with all the requirements of law, and both the District and Contractor have full power and authority to comply with the terms and provisions of this Agreement.

C. INDEPENDENT CONTRACTOR. It is understood and agreed that at all times the relationship of Contractor and its employees, agents, successors, assigns or anyone directly or indirectly employed by Contractor to the District is the relationship of an independent contractor and not that of an employee, agent, joint-venturer, or partner of the District. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the District and Contractor or any of its employees, agents, successors, assigns or anyone directly or indirectly employed by Contractor. The parties acknowledge that Contractor is not an employee for state or federal tax purposes. Contractor shall hire and pay all of Contractor's or its employees, agents, successors, assigns or anyone directly or indirectly employed by Contractor, all of whom shall be employees of Contractor and not employees of the District and at all times entirely under Contractor's supervision, direction, and control.

In particular, the District will not: i) withhold FICA (Social Security) from Contractor's payments; ii) make state or federal unemployment insurance contributions on Contractor's behalf; iii) withhold state or federal income tax from payment to Contractor; iv) make disability insurance contributions on behalf of Contractor; or v) obtain workers' compensation insurance on behalf of Contractor.

D. APPLICABLE LAW AND VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without reference to the principles of conflict of laws. Except for actions seeking injunctive relief (which may be brought in any appropriate jurisdiction), suits under this agreement shall only be brought in a court of competent jurisdiction in Lake County, Florida. This choice of venue is intended by the parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this section. The District and Contractor waive any right they may have to assert the doctrine of *forum non conveniens* or similar doctrine, or to object to venue with respect to any proceeding brought in accordance with this Section.

E. LIMITATIONS ON GOVERNMENTAL LIABILITY. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the District beyond any statutory limited waiver of immunity or limits of liability in Section 768.28, *Florida Statutes*, or other statute, and

nothing in this Agreement shall inure to the benefit of any third-party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

F. THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the District and Contractor and no right or cause of action shall accrue upon or by reason to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the District and Contractor any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the District and Contractor and their respective representatives, successors, and assigns.

G. DEFAULT AND PROTECTION AGAINST THIRD-PARTY INTERFERENCE. A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of actual damages and/or specific performance. The District shall be solely responsible for enforcing its rights under this Agreement against any interfering third-party. Nothing contained in this Agreement shall limit or impair the District's right to protect its rights from interference by a third-party to this Agreement.

H. NOTICES. All notices, requests, consents, and other communications under this Agreement (“**Notice**” or “**Notices**”) shall be in writing and shall be delivered via e-mail and mailed by Overnight Delivery or First-Class Mail, postage prepaid, to the parties, as follows:

If to Contractor: BBM America, LLC
 d/b/a Re-Align Web Design
 592 West Palm Valley Drive
 Oviedo, Florida 32765
 Attn: _____

If to District: Kepler Road Community Development District
 219 East Livingston Street
 Orlando, Florida 32801
 Attn: District Manager

With a copy to: Kutak Rock LLP
 107 West College Avenue
 Tallahassee, Florida 32301
 Attn: District Counsel

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal

holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for Contractor may deliver Notice on behalf of the District and Contractor. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days' written notice to the parties and addressees set forth herein.

I. ENTIRE AGREEMENT. This Agreement, together with **Exhibit A**, sets forth the entire agreement of the parties, and supersedes any prior agreements or statements with respect to the subject matter hereof. No provision of this Agreement may be amended, waived or modified unless the same is set forth in writing and signed by each of the Parties to this Agreement, or their respective successors or assigns.

J. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

K. ASSIGNMENT. Neither the District nor Contractor may assign this Agreement without the prior written consent of the other. Any purported assignment without such consent shall be null and void.

L. AMENDMENTS. This Agreement may be amended or modified only by a written instrument duly executed by both parties.

M. FORCE MAJEURE. If either party is prevented from performing any of its obligations under this Agreement due to any cause beyond the party's reasonable control, including, without limitations, an "act of God," fire, flood, war, strike, government regulation, civil or military authority, acts or omissions of transmitters, utilities, providers or hackers, the time for that party's performance will be extended for the period of the delay or inability to perform due to such occurrence.

N. SURVIVAL. In addition to such other provisions hereof which, by their terms, survive any termination or expiration of this Agreement, Section 6 (Intellectual Property), Section 7 (Public Records) and Section 10 (General Provisions) shall survive any termination or expiration of this Agreement.

O. WAIVER. No breach of any term of this Agreement shall be deemed waived unless expressly waived in writing by the party who might assert such breach. Any failure or delay by either party to exercise any right, power, or privilege under this Agreement shall not be deemed a waiver of any such right, power, or privilege under this Agreement on that or any subsequent occasion. Any waiver by either party, whether express or implied, of any provision of this Agreement, any waiver of default, or any course of dealing hereunder, shall not affect such party's right to thereafter enforce such provision or to exercise any right or remedy in the event of any other default or breach, whether or not similar.

P. COUNTERPARTS. This instrument may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original, and such counterparts

together shall constitute one and the same instrument. Signature and acknowledgement pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

Q. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the parties as an arm's length transaction. Both parties participated fully in the preparation of this Agreement and received the advice of counsel. In case of a Dispute concerning the interpretation of any provision of this Agreement, both parties are deemed to have drafted, chosen, and selected the language, and the doubtful language will not be interpreted or construed against either party.

R. DESCRIPTIVE HEADINGS. The descriptive headings in this Agreement are for convenience only and shall not control nor affect the meaning or construction of any of the provisions of this Agreement.

S. E-VERIFY. The Contractor shall comply with and perform all applicable provisions of Section 448.095, *Florida Statutes*. Accordingly, to the extent required by Florida Statute, Contractor shall register with and use the United States Department of Homeland Security's E-Verify system to verify the work authorization status of all newly hired employees. The District may terminate this Agreement immediately for cause if there is a good faith belief that the Contractor has knowingly violated Section 448.09(1), *Florida Statutes*. By entering into this Agreement, the Contractor represents that no public employer has terminated a contract with the Contractor under Section 448.095(2)(c), *Florida Statutes*, within the year immediately preceding the date of this Agreement.

T. COMPLIANCE WITH SECTION 20.055, FLORIDA STATUTES. The Contractor agrees to comply with Section 20.055(5), *Florida Statutes*, to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to such section and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), *Florida Statutes*.

U. SCRUTINIZED COMPANIES STATEMENT. Contractor certifies it: (i) is not in violation of Section 287.135, *Florida Statutes*; (ii) is not on the Scrutinized Companies with Activities in Sudan List; (iii) is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; (iv) does not have business operations in Cuba or Syria; (v) is not on the Scrutinized Companies that Boycott Israel List; and (vi) is not participating in a boycott of Israel. If the Contractor is found to have submitted a false statement with regards to the prior sentence, has been placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, has engaged in business operations in Cuba or Syria, and/or has engaged in a boycott of Israel, the District may immediately terminate the Contract.

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IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the date and year first set forth above.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary / Assistant Secretary

Chairperson, Board of Supervisors

WITNESS:

**BBM AMERICA, LLC D/B/A RE-ALIGN
WEB DESIGN**

Print Name

By: _____
Title: _____

Exhibit A: Proposal for Services

Exhibit A
Proposal for Services



REALIGNSM

WEB DESIGN

Align the future. ReAlign the past.

Customized ADA Compliant Website Proposal

for:

Kepler Road Community Development District

November 22, 2023



Project Scope

Website Design Overview

1. Project Background and Description

Kepler Road CDD (the client) is seeking an ADA compliant website.

2. Project Scope

ReAlign Web Design (the company) will create and design a new website for **the client**. The website will aim to portray the CDD in a professional image while serving several functions such as; district information center, document storage, Florida statute requirement fulfillment, and ADA compliance.

The website will have standard security including antivirus, firewall and SSL encryption. The website will be compliant with Section 508 of the Americans with Disabilities Act (ADA) and will maintain a conformance level of AA with the Web Content Accessibility Guidelines 2.1 (WCAG 2.1).

The project is considered finished when **the client** is satisfied with the implementation of the website provided, within reason. **The company** will provide an invoice upon completion and implementation of the website. Any further revisions beyond the finished website may be subject to a fee.

3. Deliverables

The company: One completed website, site content and images, website security, antivirus and firewall, SSL implementation, domain transfer (if necessary), DNS and hosting setup, ADA Section 508 compliance and WCAG 2.1 AA conformity.

The client: Payment upon completion and invoice receipt and any content required to complete the project within the scope of work including proprietary property.

4. Price - \$1,750 Upon Completion

The company will bill \$1,750 upon completion of the finished website and acceptance by **the client**.

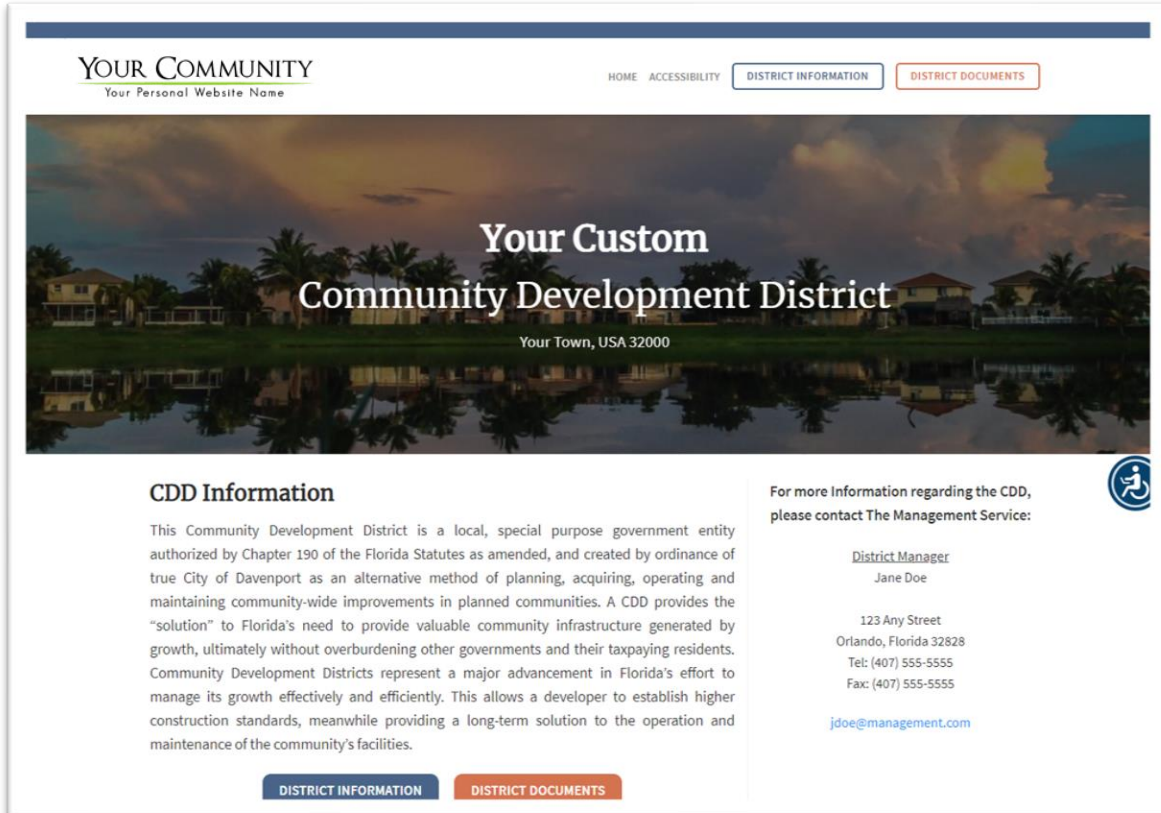
5. High-Level Timeline/Schedule

The company will utilize best efforts to deliver the completed website within one month of an executed agreement and authority to proceed.

Demo Content – Everything is Customized

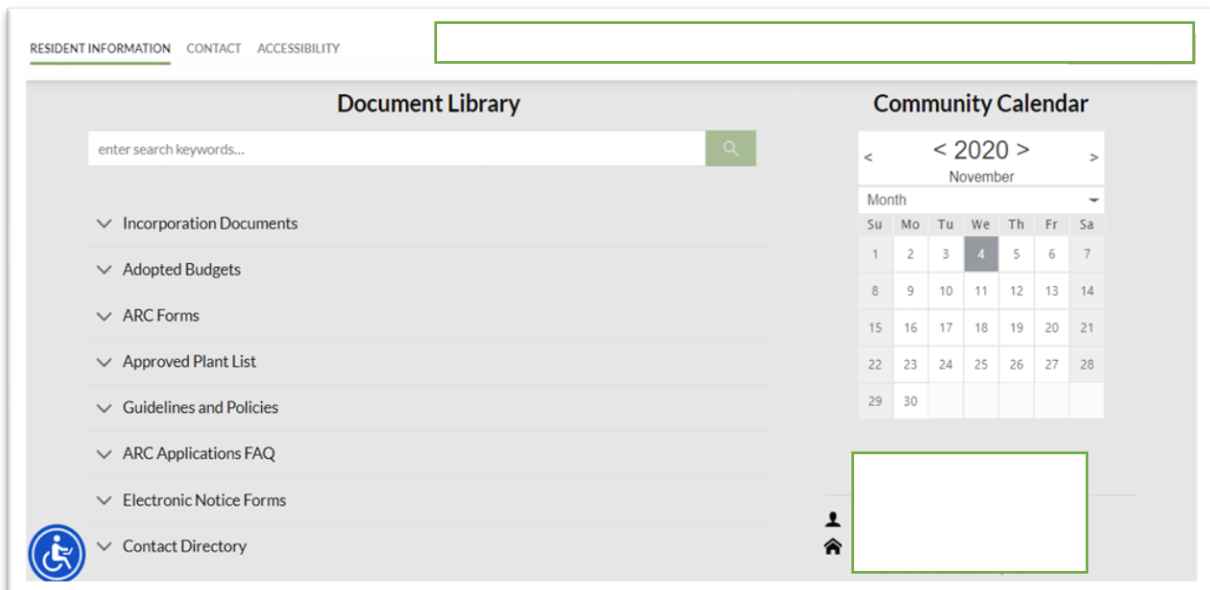
Custom Website Design

Featuring a welcome page with public information, community features and documents.



Document Storage

Quickly search, find, and download community documents like budgets, notices, and more.







Community Information

Display the current board, meeting notices, and other important information.

BOARD OF DIRECTORS

CDD Board

			
TROY GRAY BOARD MEMBER	JULY WOOD BOARD MEMBER	NICO VULTURE BOARD MEMBER	RICHY LACE BOARD MEMBER
f t e i	f t e i	f t e i	f t e i
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh.	Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh.	Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh.	Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh.

Easy Contact

Custom contact options that notify the board and/or management company.

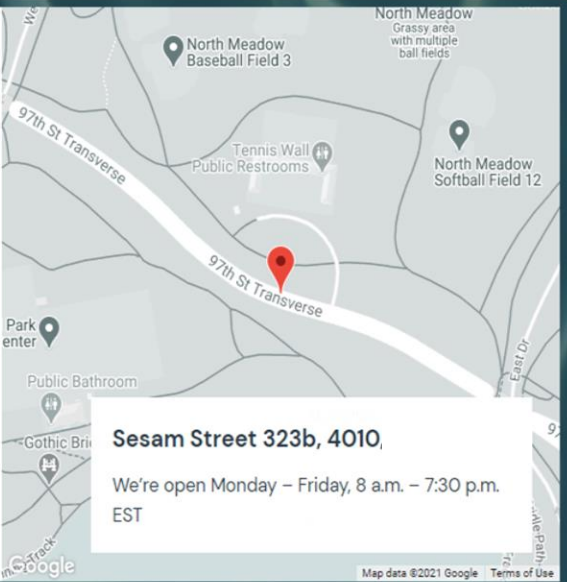
GET IN TOUCH

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat.

Your Name (required)

Your Email (required)

Your Message (required)



Sesam Street 323b, 4010

We're open Monday – Friday, 8 a.m. – 7:30 p.m. EST

Indemnification: The Company warrants that all accessibility compliance seals warrant a passing grade from the UserWay accessibility testing widget at the time of testing according to the standards set forth by UserWay. The Company does not independently verify the accuracy of accessibility tests. The Client specifically recognizes and acknowledges that ADA Section 508 guidelines and WCAG 2.1 guidelines are constantly changing and that at the time of this Agreement there is no single definitive authority on digital accessibility standards. Upon acceptance of the completed website, the Client assumes title to the website along with all responsibility for maintaining ADA 508 and WCAG 2.1 conformity and compliance. At the moment of transfer of title of the website to the Client and thereafter in perpetuity, the Client shall indemnify, defend and hold Company and its owners, shareholders, officers, directors, partners, partnerships, affiliates, subsidiaries, divisions or employees, authorized agents, independent contractors and permitted assigns (“Company Indemnified Parties”) harmless from and against any and all claims, suits, actions, demands, and proceedings of any kind (“Claims”), threatened, asserted or filed against Company or any and all Company Indemnified Parties by any third party, and any damages, losses, expenses, liabilities or costs of any kind (including but not limited to reasonable attorneys' fees, witness fees and court costs) which may be incurred in connection with such Claims (including those necessary to successfully establish the right to indemnification), regarding non-compliance with any ADA Section 508 guidelines and WCAG 2.1 guidelines or similar regulations and cannot be held liable for any lawsuits arising therefrom.

Approval and Authority to Proceed

We approve the project as described above and authorize the team to proceed.

Service	Acceptance
Website creation - \$1,750 one-time fee	
ADA Compliance Audits - \$960 annually	

Approved By

Date

SECTION P

RESOLUTION 2024-24

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT GRANTING THE CHAIRPERSON, OR IN HIS OR HER ABSENCE THE VICE CHAIRPERSON, THE AUTHORITY TO EXECUTE REAL AND PERSONAL PROPERTY CONVEYANCE AND DEDICATION DOCUMENTS, PLATS AND OTHER DOCUMENTS RELATED TO THE DEVELOPMENT OF THE DISTRICT'S IMPROVEMENTS; APPROVING THE SCOPE AND TERMS OF SUCH AUTHORIZATION; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Kepler Road Community Development District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, and situated within the City of Deland, Florida; and

WHEREAS, Chapter 190, *Florida Statutes*, authorizes the District to construct, install, operate, and/or maintain systems and facilities for certain basic infrastructure, including but not limited to, stormwater management systems, water, reuse and sanitary sewer systems, gas and electrical systems, landscape, hardscape and irrigation improvements, and roadway improvements; and

WHEREAS, the District intends to adopt a Master Engineer's Report ("Improvement Plan"), which sets forth the scope of the District's capital improvement plan and the improvements that are to be constructed thereto ("Improvements"); and

WHEREAS, in connection with the development of the Improvements in accordance with the Improvement Plan, which includes, but is not limited to, obtaining all necessary permits and approvals from local governments and agencies for the construction and/or operation of infrastructure improvements, the District is required, from time to time, to accept, convey and dedicate certain interests in real and personal property, including, but not limited to easements, plat dedications, deeds and bills of sale for infrastructure improvements ("Permits and Conveyances", or individually, "Permit" and "Conveyance"); and

WHEREAS, to facilitate the efficient development of the Improvements, the District desires to authorize the Chairperson, or Vice Chairperson in his or her absence, to approve and execute the Permits and Conveyances necessary to finalize the development of the District's improvement plan ("Conveyance Authority"); and

WHEREAS, the Conveyance Authority shall be subject to the review of the District Engineer and the District Counsel, both agreeing that each such proposed Permit or Conveyance is legal, consistent with the District's Improvement Plan and necessary for the development of the Improvements; and

WHEREAS, the Board of Supervisors finds that granting to the Chairperson, or Vice Chairperson in his or her absence, the Conveyance Authority is in the best interests of the District so that the development of the Improvements may proceed expeditiously, subject to the terms and limitations imposed by this Resolution.

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

SECTION 1. INCORPORATION OF RECITALS. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Resolution.

SECTION 2. DELEGATION OF AUTHORITY. The Chairperson of the District’s Board of Supervisors, or in his or her absence the Vice Chairperson, is hereby authorized to sign, accept, or execute Permits and Conveyances as defined above. The Vice Chairperson, Secretary, and Assistant Secretary of the District’s Board of Supervisors are hereby authorized to countersign any such Permits and Conveyances signed by the Chairperson or Vice Chairperson in his or her absence. Such authority shall be subject to the District Engineer and District Counsel’s review and approval.

SECTION 3. SEVERABILITY. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 11th day of December 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

SECTION Q

RESOLUTION 2024-25

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT PROVIDING FOR AND AUTHORIZING THE USE OF ELECTRONIC DOCUMENTS AND SIGNATURES; ADOPTING AND IMPLEMENTING ELECTRONIC DOCUMENT CONTROL PROCESSES AND PROCEDURES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the Kepler Road Community Development District (the “District”) is a local unit of special purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, and situated within the City of Deland, Volusia County, Florida; and

WHEREAS, Chapter 190, *Florida Statutes*, authorizes the District to construct, install, operate, and/or maintain systems and facilities for certain basic infrastructure; and

WHEREAS, Chapter 190, *Florida Statutes* authorizes the District Board of Supervisors, to enter into various contracts for the purposes set forth therein; and

WHEREAS, the District Board of Supervisors finds that it is the interest of the District and its residents to reduce waste, costs, and to enhance services; and

WHEREAS, the District Board of Supervisors recognizes that the Florida Legislature, through the passage of the Electronic Signature Act of 1996, codified in Chapter 668, *Florida Statutes* (“Act”), intended to, among other goals, facilitate economic development and efficient delivery of government services by means of reliable electronic messages and foster the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to writings in any electronic medium; and

WHEREAS, the District Board of Supervisors wishes to further these goals through the use of electronic documents and signatures.

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

SECTION 1. INCORPORATION OF RECITALS. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Resolution.

SECTION 2. FORCE AND EFFECT OF ELECTRONIC DOCUMENTS AND SIGNATURES. Unless otherwise provided by law, electronic documents and signatures submitted to and on behalf of the District may be used for all purposes and shall have the same force and effect as printed documents and manual signatures.

SECTION 3. AUTHORIZING UTILIZATION OF ELECTRONIC SIGNATURES AND DOCUMENTS. All contractors and personnel associated with the District are hereby authorized and encouraged to utilize electronic documents and signatures when reasonably practicable and as permitted by law. The District Manager is authorized and directed to obtain the provision of electronic document services or platforms offered by nationally recognized third party vendors that increase the efficiency of the District's operations.

SECTION 4. CONTROLS PROCESSES AND PROCEDURES. The District Board of Supervisors hereby authorizes and directs the District Manager to create and implement control processes and procedures consistent with Florida Law to ensure adequate integrity, security, confidentiality, and auditability of all transactions conducted using electronic commerce.

SECTION 5. SEVERABILITY. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this ____ day of _____ 2023.

ATTEST:

**KEPLER ROAD COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair

SECTION VI

SECTION A

SECTION 1

TAMPA
2502 Rocky Point Drive
Suite 1060
Tampa, Florida 33607
(813) 281-2222 Tel
(813) 281-0129 Fax



TALLAHASSEE
1500 Mahan Drive
Suite 200
Tallahassee, Florida 32308
(850) 224-4070 Tel
(850) 224-4073 Fax

PLANTATION
8201 Peters Road
Suite 1000
Plantation, Florida 33324
(954) 315-0268 Tel

November 27, 2023

VIA ELECTRONIC DELIVERY

Board of Supervisors
Kepler Road Community Development District
Deland, Florida

Board Members:

We appreciate the opportunity to submit this proposal, along with a bond counsel agreement, to provide bond counsel services to Kepler Road Community Development District (the "District") in connection with the issuance by the District of tax-exempt or taxable municipal bonds (the "Bonds"). Nabors, Giblin & Nickerson, P.A. ("NGN") is a Florida based firm with offices in Tampa, Plantation and Tallahassee. Established in August 1984, NGN was formed so that its principals could focus their practice upon the representation of local government on a statewide basis, specializing in public finance and general governmental and administrative law. NGN still operates on this premise and currently has 26 attorneys with extensive experience and primary dedication to representing governmental clients in the areas of bond finance practice, capital finance practice, public utilities practice, litigation practice, governance structures, financial transactions practice and public/private partnerships. Over the last five years, NGN has served as bond counsel in approximately 600 financings with an approximate aggregate principal amount of \$22.3 billion. During such period of time, NGN has also served as disclosure counsel in approximately 162 transactions with an approximate aggregate principal amount of \$18.0 billion and as underwriters' counsel in approximately 151 transactions with an approximate aggregate principal amount of \$4.5 billion.

Specifically, NGN has been on the forefront of representation of community development districts since the early 1990s, representing over 200 special districts, the majority of which are community development districts, as bond counsel and/or disclosure counsel. NGN has also been involved in numerous other special district financings as underwriter's counsel, trustee's counsel and bank counsel. NGN currently serves as bond counsel to many of the major national and regional home builders and developers, including D.R. Horton, Forestar, Barron Collier Companies, Metro Development Group, Mattamy Homes, Lennar and KB Homes, among others. Attached hereto as Exhibit A is a list of special district financings within the past five years for which NGN served as bond counsel.

Cynthia E. Wilhelm will be the attorney primarily responsible to the District. Currently a shareholder with NGN, Ms. Wilhelm is located in the Tampa office and has over eleven years of transactional experience, including over eight years working on numerous

special district financings throughout the State of Florida. Ms. Wilhelm will be assisted by L. Thomas Giblin, who has over 43 years of experience in municipal finance law, and Richard B. Harb, who was selected as a Super Lawyers® Rising Star in 2022 for government finance and is NGN's lead attorney for more complex tax-related matters. All of the public finance lawyers at NGN are knowledgeable with respect to the types of tax issues that may arise in a typical bond transaction. For more information on NGN, please visit our website at www.ngnlaw.com.

In general, bond counsel is engaged as recognized counsel specially experienced in Florida law and federal tax and securities laws relating to governmental obligations, whose primary responsibility will be to render an objective legal opinion with respect to the authorization and validity of the Bonds and the tax treatment of interest payable on such Bonds under federal income tax laws. As bond counsel, we will examine applicable laws, prepare and/or review various documents required for the successful closing of each transaction, and undertake such additional duties as we deem necessary to render our opinion. The above-described services specifically include but are not limited to the following:

- (a) consulting with representatives of the District and the underwriter of the Bonds (the "Underwriter") or, in the case of a private placement, the bank purchasing the Bonds (the "Initial Purchaser"), and their respective counsels concerning all legal questions relating to the Bonds and the security for the payment of debt service on the Bonds;
- (b) assisting counsel to the District with the preparation of validation pleadings in connection with the validation of the Bonds and appearing as attorneys of record with counsel to the District at the validation hearing for the Bonds;
- (c) attending meetings of the District during which the proposed financing will be considered;
- (d) drafting the required trust indentures, including a Master Trust Indenture and Supplemental Trust Indentures, certain resolutions of the District authorizing the issuance of the Bonds, and the Arbitrage and Tax Certificate and other related documents, certificates and legal opinions required for closing;
- (e) analyzing and resolving tax problems associated with the financing;
- (f) conducting the preclosing and the closing in connection with the financing;
- (g) reviewing documents drafted by the Underwriter and its counsel or the Initial Purchaser and its counsel;
- (h) reviewing documents drafted by counsel to the District;

- (i) reviewing various reports prepared in connection with the financing, including but not limited to engineer's reports and assessment methodology reports; and
- (j) providing the District such other legal services and advice with respect to the financing as are traditionally provided by bond counsel.

Subject to the completion of proceedings to our satisfaction, we will render our opinion for the Bonds addressed to the District, with a reliance letter addressed to the Underwriter or Initial Purchaser and the trustee, substantially to the effect that the Bonds are valid, binding and enforceable obligations of the District and, if the Bonds are tax-exempt, that the interest thereon is excludable from gross income of the owners under the income tax laws of the United States in effect on the date such Bonds are delivered to the Underwriter or Initial Purchaser. The opinion will also opine as to such other matters, if any, that are at the date of closing normally included in the opinions of bond counsel for similar transactions.

Based upon (a) the duties we propose to undertake with respect to each financing, (b) the time we anticipate devoting to each financing, and (c) the responsibilities we assume, we agree that our fee for each publicly offered financing will be \$40,000 for financings with only one series of Bonds and \$45,000 for financings with multiple series of Bonds, regardless of the total principal amount of the Bonds. Fees for private placement financings will be negotiated at the commencement of such financing, provided such fee will not exceed \$35,000 per financing. The foregoing fees shall include all out-of-pocket expenses incurred by NGN in connection with the services rendered and no other expenses shall be payable by the District in connection with bond counsel services.

We agree that our fee for bond counsel services will be contingent upon the successful closing of the applicable financing. If such financing is abandoned, we will not be entitled to any fee for services rendered. In addition, we understand that questions or issues may arise that are outside the scope of a particular financing. Unless such issues require a substantial engagement on our part, we will not charge additional hourly rates for legal services in connection with such issues. Should an issue arise that requires a substantial engagement, any fees to be charged will be determined upon mutual agreement of the parties at such time.

We appreciate the opportunity to be of service to you and thank you for your consideration.

NABORS, GIBLIN & NICKERSON, P.A.


By: 
Cynthia E. Wilhelm, Shareholder

EXHIBIT A**LISTING OF TRANSACTIONS AS BOND COUNSEL FOR
SPECIAL DISTRICT FINANCINGS
NOVEMBER 2018 TO PRESENT**

Issuer	Bond Issue	Par Amount
Epperson North Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2018A	\$23,740,000
Paseo Community Development District (City of Fort Myers, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2018	\$9,625,000
Zephyr Lakes Community Development District (City of Zephyrhills, Florida)	Capital Improvement Revenue Bonds, Series 2019	\$6,460,000
South Village Community Development District (Clay County, Florida)	Capital Improvement Revenue Bonds, Series 2019	\$4,955,000
Hidden Creek Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Bonds, Series 2019	\$12,590,000
Orange Blossom Ranch Community Development District (Collier County, Florida)	Capital Improvement Revenue Bonds, Series 2019	\$10,240,000
Union Park East Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2019A	\$10,350,000
Ave Maria Stewardship Community District (Collier County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2019	\$20,310,000
Copperstone Community Development District (Manatee County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2019	\$5,209,000
Talavera Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2019	\$4,705,000
Sweetwater Creek Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2019A	\$10,805,000
Harbor Bay Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue and Refunding Bonds, Series 2019A	\$28,175,000
Mirada Community Development District (Pasco County, Florida)	Bond Anticipation Notes, Series 2019	\$12,000,000
Osceola Chain of Lakes Community Development District (Osceola County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$5,980,000
Finley Woods Community Development District (City of Gainesville, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$3,075,000
Sampson Creek Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$2,520,000
Chaparral of Palm Bay Community Development District (City of Palm Bay, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$5,900,000
Rivers Edge II Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$7,165,000
Epperson Ranch II Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$10,300,000
Ave Maria Stewardship Community District (Collier County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$3,440,000

Issuer	Bond Issue	Par Amount
Pine Ridge Plantation Community Development District (Clay County, Florida)	Capital Improvement Revenue and Refunding Bonds, Series 2020	\$12,435,000
Trout Creek Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$4,185,000
Rolling Hills Community Development District (Clay County, Florida)	Capital Improvement Revenue and Refunding Bonds, Series 2020	\$4,465,000
Live Oak Lake Community Development District (Osceola County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$16,275,000
Overoaks Community Development District (Osceola County, Florida)	Capital Improvement Revenue Refunding Bond, Series 2020	\$3,765,000
Wiregrass II Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$10,705,000
Chapel Crossings Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$12,030,000
Copperstone Community Development District (Manatee County, Florida)	Taxable Capital Improvement Revenue Note, Series 2020	\$800,000
DG Farms Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Bonds, Series 2020	\$3,855,000
Mirada II Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$26,850,000
Epperson North Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$15,000,000
Ave Maria Stewardship Community District (Collier County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$11,340,000
Amelia National Community Development District (Nassau County, Florida)	Capital Improvement Revenue Refunding Bond, Series 2021	\$4,915,000
Capital Region Community Development District (City of Tallahassee, Florida)	Capital Improvement Revenue Refunding Bond, Series 2021	\$2,800,000
River Glen Community Development District (Nassau County, Florida)	Capital Improvement Revenue and Refunding Bonds, Series 2021	\$15,355,000
Cascades at Groveland Community Development District (City of Groveland, Florida)	Capital Improvement Revenue Refunding Bond, Series 2021	\$3,053,000
Rivers Edge II Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$9,900,000
Rivers Edge III Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$9,880,000
Cordoba Ranch Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2021	\$6,135,000
South Fork East Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2021	\$3,121,000
North AR-1 of Pasco Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$13,600,000
Zephyr Lakes Community Development District (City of Zephyrhills, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$6,600,000
Brightwater Community Development District (Lee County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$10,000,000

Issuer	Bond Issue	Par Amount
Ave Maria Stewardship Community District (Collier County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$11,610,000
Ave Maria Stewardship Community District (Collier County, Florida)	Bond Anticipation Notes, Series 2021	\$15,640,000
Southshore Bay Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$11,170,000
Lake Ashton II Community Development District (Polk County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2021	\$3,535,000
Union Park East Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$3,095,000
Entrada Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$12,280,000
Leomas Landing Community Development District (City of Lake Wales, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$5,355,000
Epperson North Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2021A	\$17,605,000
Gracewater Sarasota Community Development District (Sarasota County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$16,780,000
St. Lucie West Services District (St. Lucie County, Florida)	Capital Improvement Revenue Bond, Series 2021-2	\$1,685,000
Mirada Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$9,600,000
North AR-1 of Pasco Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2021A	\$9,800,000
Ocala Preserve Community Development District (Marion County, Florida)	Capital Improvement Revenue Bonds, Series 2021	\$3,855,000
WaterGrass II Community Development District (Pasco County, Florida)	Special Assessment Revenue Refunding Bonds, Series 2021	\$5,385,000
Golden Lakes Community Development District (Polk County, Florida)	Taxable Special Assessment Note, Series 2021	\$1,000,000
Villages of Glen Creek Community Development District (City of Bradenton, Florida)	Capital Improvement Revenue and Refunding Bonds, Series 2022	\$5,250,000
Water's Edge Community Development District (Manatee County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2022	\$2,065,000
Ave Maria Stewardship Community District (Collier County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$7,775,000
Ave Maria Stewardship Community District (Collier County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2022A	\$22,950,000
Rustic Oaks Community Development District (City of Venice, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$17,230,000
Rolling Hills Community Development District (Clay County, Florida)	Capital Improvement Revenue and Refunding Bonds, Series 2022	\$10,870,000
Lake Ashton II Community Development District (Polk County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2022	\$3,245,000
Mira Lago West Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Refunding Bond, Series 2022	\$3,007,000

Issuer	Bond Issue	Par Amount
Bridgewater North Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$10,195,000
Pelican Marsh Community Development District (Collier County, Florida)	Special Assessment Revenue Refunding Bond, Series 2022	\$3,460,000
Cross Creek North Community Development District (Clay County, Florida)	Special Assessment Bonds, Series 2022	\$15,075,000
Mangrove Point and Mangrove Manor Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$7,850,000
Somerset Community Development District (Walton County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2022	\$10,745,000
Villages of Glen Creek Community Development District (Hillsborough County, Florida)	Capital Improvement Revenue Bonds, Series 2022A	\$7,500,000
Trout Creek Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$3,085,000
Willow Creek Community Development District (Brevard County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$2,575,000
Wiregrass II Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$11,460,000
Mirada II Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$11,600,000
Coddington Community Development District (Manatee County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$6,215,000
Renaissance Community Development District (Lee County, Florida)	Capital Improvement Revenue Refunding Bond, Series 2022	\$5,545,000
Buena Lago Community Development District (Osceola County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$4,420,000
Stoneybrook Community Development District (Lee County, Florida)	Special Assessment Revenue Bonds, Series 2022-1	\$4,325,000
Stoneybrook Community Development District (Lee County, Florida)	Taxable Special Assessment Revenue Bonds, Series 2022-2	\$7,755,000
Avalon Park West Community Development District (Pasco County, Florida)	Special Assessment Revenue Bonds, Series 2022	\$5,895,000
Coral Bay of Lee County Community Development District (Lee County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$3,845,000
Cypress Shadows Community Development District (Lee County, Florida)	Capital Improvement Revenue Refunding Bonds, Series 2022	\$1,070,000
Brookstone Community Development District (Manatee County, Florida)	Special Assessment Revenue Bonds, Series 2022	\$10,700,000
Willows Community Development District (Manatee County, Florida)	Special Assessment Revenue Bonds, Series 2022	\$8,315,000
Stoneybrook North Community Development District (Lee County, Florida)	Capital Improvement Revenue and Refunding Bonds, Series 2022	\$5,300,000
Woodcreek Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2022	\$3,785,000
Ridge at Heath Brook Community Development District (City of Ocala, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$2,325,000

Issuer	Bond Issue	Par Amount
Waterford Community Development District (Hernando County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$4,835,000
Rye Crossing Community Development District (Manatee County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$2,625,000
Parrish Lakes Community Development District (Manatee County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$12,400,000
Harmony West Community Development District (Osceola County, Florida)	Special Assessment Revenue Bonds, Series 2023	\$3,435,000
Arbors Community Development District (City of Jacksonville, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$12,435,000
Merrick Square Community Development District (City of Pembroke Pines, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$4,215,000
West Villages Improvement District (City of North Port, Florida)	Special Assessment Revenue Bonds, Series 2023	\$17,130,000
Varrea South Community Development District (City of Plant City, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$8,870,000
Harmony on Lake Eloise Community Development District (City of Winter Haven, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$2,665,000
Lake Lizzie Community Development District (Osceola County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$3,535,000
Cypress Bay West Community Development District (City of Palm Bay, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$7,625,000
Parrish Lakes Community Development District (Manatee County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$9,540,000
Cross Creek North Community Development District (Clay County, Florida)	Special Assessment Bonds, Series 2023	\$8,915,000
Ave Maria Stewardship Community District (Collier County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$19,150,000
Westwood of Paso Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$3,775,000
North AR-1 of Pasco Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$13,500,000
Hawthorne Mill North Community Development District (City of Lakeland, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$3,275,000
Avalon Park West Community Development District (Pasco County, Florida)	Special Assessment Revenue Bonds, Series 2023	\$3,355,000
Entrada Community Development District (St. Johns County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$7,580,000
Ocala Preserve Community Development District (Marion County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$5,260,000
Cope's Landing Community Development District (City of Jacksonville, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$7,695,000
West Villages Improvement District (City of North Port, Florida)	Special Assessment Revenue Bonds Series 2023	\$4,805,000
Towns at Woodsdale Community Development District (Pasco County, Florida)	Capital Improvement Revenue Bonds, Series 2023	\$5,870,000

BOND COUNSEL AGREEMENT

This Bond Counsel Agreement (this "Agreement") is entered into this ___ day of December, 2023, by and between the **KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT** (the "District"), an independent special district organized and existing under the provisions of Chapter 190, Florida Statutes, as amended, and **NABORS, GIBLIN & NICKERSON, P.A.**, a Florida professional service corporation ("Nabors Giblin").

W I T N E S S E T H:

WHEREAS, the District plans to issue capital improvement revenue bonds (the "Bonds") to finance the acquisition, construction and equipping of certain assessable capital improvements benefiting residents of the District; and

WHEREAS, the District desires to engage Nabors Giblin as bond counsel in connection with the issuance and sale of the Bonds, on the terms and conditions hereinafter set forth; and

WHEREAS, Nabors Giblin desires to accept engagement as bond counsel for the District in connection with the issuance and sale of the Bonds, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, which shall be deemed an integral part of this Agreement, and of the covenants and agreements herein contained, the District and Nabors Giblin, both intending to be legally bound hereby, agree as follows:

1. BOND COUNSEL.

(a) Duties. Nabors Giblin shall serve as bond counsel to the District in connection with the issuance of the Bonds. The duties of Nabors Giblin as bond counsel shall include the following:

(i) prepare all indentures, including a Master Indenture and Supplemental Indenture(s) with respect to the Bonds, and other documents relating to the Bonds, said duty to be performed in cooperation with the financial advisors and/or underwriters engaged by the District;

(ii) if requested by the District, prepare validation pleadings, including the proposed final judgment, in connection with the validation of the Bonds and appear as attorneys of record with the District Counsel at the validation hearing;

(iii) review all disclosure documents, including official statements, prepared or authorized by the District insofar as such documents contain descriptions of the Bonds and summaries of contracts or other documents relevant to the Bonds; provided, however, that Nabors Giblin shall have no responsibility for the disclosure documents insofar as such documents describe the financial circumstances of the offering or any other statistical projects or

data, and provided further, that Nabors Giblin shall have no responsibility to the purchasers of the Bonds for state or federal securities law compliance in connection with the offering of the Bonds;

(iv) review all underwriters' proposals as requested by the District, prepare all closing documents, and attend and be responsible for the closing, as well as attend drafting and informational meetings regarding the Bonds; and

(v) render opinions in written form at the time the Bonds are to be authenticated and delivered, which opinions shall cover the legality of the Bonds and the exemption of the Bonds from federal income taxation.

(b) Fees and Expenses for Services Rendered as Bond Counsel. The District shall pay to Nabors Giblin, as a fee for services rendered pursuant to this Section 1, the sum of \$40,000 per issue for a publicly offered issue with one series of Bonds and \$45,000 per issue for a publicly offered issue with multiple series of Bonds. Fees for private placement financings will be negotiated at the commencement of such financing, provided such fee will not exceed \$35,000 per financing. Such fee shall be paid by the District to Nabors Giblin only from the proceeds derived by the District from the sale of the Bonds and, if the Bonds are not sold, then no fees shall be paid by the District for services rendered pursuant to this Section 1.

The foregoing fee shall include all out-of-pocket expenses incurred by Nabors Giblin in connection with services rendered hereunder, and no other expenses shall be payable by the District in connection with bond counsel services.

2. TERMINATION. This Agreement may be terminated by the District, or by Nabors Giblin, with or without cause, upon fifteen (15) days prior written notice to the other. If the District terminates Nabors Giblin for any reason, then no compensation shall be paid to Nabors Giblin for any services theretofore rendered pursuant to Section 1 of this Agreement.

3. CONSTRUCTION. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida.

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IN WITNESS WHEREOF, the District and Nabors Giblin have executed this Agreement as of the date set forth above.

**KEPLER ROAD
COMMUNITY DEVELOPMENT DISTRICT**

By: _____
Chairman/Vice Chairman

NABORS, GIBLIN & NICKERSON, P.A.

By:  _____
Cynthia Wilhelm, Shareholder

SECTION 2



MBS CAPITAL MARKETS, LLC

AGREEMENT FOR UNDERWRITING SERVICES KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT

November 27, 2023

Board of Supervisors
Kepler Road Community Development District

Dear Supervisors:

MBS Capital Markets, LLC (the "Underwriter") offers to enter into this agreement (the "Agreement") with the Kepler Road Community Development District (the "District") which, upon your acceptance of this offer, will be binding upon the District and the Underwriter. This agreement relates to the proposed issuance of the initial series of bonds anticipated to be issued in 2024 (the "Bonds") to acquire and/or construct certain public infrastructure improvements for the District. This Agreement will cover the engagement for the Bonds and will be supplemented for future bond issuances as may be applicable.

1. **Scope of Services:** MBS intends to serve as the underwriter, and not as a financial advisor or municipal advisor, in connection with the issuance of the Bonds. The scope of services to be provided in a non-fiduciary capacity by the Underwriter for this transaction will include those listed below.
 - Advice regarding the structure, timing, terms, and other similar matters concerning the particular municipal securities described above.
 - Preparation of rating strategies and presentations related to the issue being underwritten.
 - Preparations for and assistance with investor "road shows," if any, and investor discussions related to the issue being underwritten.
 - Advice regarding retail order periods and institutional marketing if the District decides to engage in a negotiated sale.
 - Assistance in the preparation of the Preliminary Official Statement, if any, and the Final Official Statement.
 - Assistance with the closing of the issue, including negotiation and discussion with respect to all documents, certificates, and opinions needed for the closing.
 - Coordination with respect to obtaining CUSIP numbers and the registration with the Depository Trust Company.
 - Preparation of post-sale reports for the issue, if any.
 - Structuring of refunding escrow cash flow requirements, but not the recommendation of and brokerage of particular municipal escrow investments.



MBS CAPITAL MARKETS, LLC

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2. **Fees:** The Underwriter will be responsible for its own out-of-pocket expenses other than the fees and disbursements of underwriter's or disclosure counsel which fees shall be paid from the proceeds of the Bonds. Any fees payable to the Underwriter will be contingent upon the successful sale and delivery or placement of the Bonds. The underwriting fee for the sale or placement of the Bonds will be the greater of \$50,000 or 2% of the par amount of Bonds issued.
3. **Termination:** Both the District and the Underwriter will have the right to terminate this Agreement without cause upon 90 days written notice to the non-terminating party.
4. **Purchase Contract:** At or before such time as the District gives its final authorization for the Bonds, the Underwriter and its counsel will deliver to the District a purchase or placement contract (the "Purchase Contract") detailing the terms of the Bonds.
5. **Notice of Meetings:** The District shall provide timely notice to the Underwriter for all regular and special meetings of the District. The District will provide, in writing, to the Underwriter, at least one week prior to any meeting, except in the case of an emergency meeting for which the notice time shall be the same as that required by law for the meeting itself, of matters and items for which it desires the Underwriter's input.
6. **Disclosures Concerning the Underwriter's Role Required by MSRB Rule G-17.** The Municipal Securities Rulemaking Board's Rule G-17 requires underwriters to make certain disclosures to issuers in connection with the issuance of municipal securities. Those disclosures are attached hereto as "Exhibit A." By execution of this Agreement, you are acknowledging receipt of the same. If you or any other Issuer officials have any questions or concerns about these disclosures, please make those questions or concerns known immediately to the undersigned. In addition, you should consult with the Issuer's own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent you deem appropriate. It is our understanding that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the subject transaction. If our understanding is incorrect, please notify the undersigned immediately.



MBS CAPITAL MARKETS, LLC

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This Agreement shall be effective upon your acceptance hereof and shall remain effective until such time as the Agreement has been terminated in accordance with Section 3 hereof.

We are required to seek your acknowledgement that you have received the disclosures referenced herein and attached hereto as Exhibit A. By execution of this agreement, you are acknowledging receipt of the same.

Sincerely,

MBS Capital Markets, LLC

A handwritten signature in blue ink, appearing to read "Brett Sealy", is positioned above a horizontal line.

Brett Sealy
Managing Partner

Approved and Accepted By: _____

Title: _____

Date: _____



MBS CAPITAL MARKETS, LLC

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EXHIBIT A

Disclosures Concerning the Underwriter's Role

- (i) MSRB Rule G-17 requires an underwriter to deal fairly at all times with both municipal issuers and investors.
- (ii) The underwriter's primary role is to purchase the Bonds with a view to distribution in an arm's-length commercial transaction with the Issuer. The underwriters has financial and other interests that differ from those of the District.
- (iii) Unlike a municipal advisor, the underwriter does not have a fiduciary duty to the District under the federal securities laws and are, therefore, is required by federal law to act in the best interests of the District without regard to their own financial or other interests.
- (iv) The underwriter has a duty to purchase the Bonds from the Issuer at a fair and reasonable price but must balance that duty with their duty to sell the Bonds to investors at prices that are fair and reasonable.
- (v) The underwriter will review the official statement for the Bonds in accordance with, and as part of, its respective responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.

Disclosure Concerning the Underwriter's Compensation

The underwriter will be compensated by a fee and/or an underwriting discount that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Bonds. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction and the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Bonds. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest since the underwriter may have an incentive to recommend to the District a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

Conflicts of Interest

The Underwriter has not identified any additional potential or actual material conflicts that require disclosure including those listed below.



MBS CAPITAL MARKETS, LLC

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Payments to or from Third Parties. There are no undisclosed payments, values, or credits to be received by the Underwriter in connection with its underwriting of this new issue from parties other than the District, and there are no undisclosed payments to be made by the Underwriter in connection with this new issue to parties other than the District (in either case including payments, values, or credits that relate directly or indirectly to collateral transactions integrally related to the issue being underwritten). In addition, there are no third-party arrangements for the marketing of the District's securities.

Profit-Sharing with Investors. There are no arrangements between the Underwriter and an investor purchasing new issue securities from the Underwriter (including purchases that are contingent upon the delivery by the District to the Underwriter of the securities) according to which profits realized from the resale by such investor of the securities are directly or indirectly split or otherwise shared with the Underwriter.

Credit Default Swaps. There will be no issuance or purchase by the Underwriter of credit default swaps for which the reference is the District for which the Underwriter is serving as underwriter, or an obligation of that District.

Retail Order Periods. For new issues in which there is a retail order period, the Underwriter will honor such agreement to provide the retail order period. No allocation of securities in a manner that is inconsistent with a District's requirements will be made without the District's consent. In addition, when the Underwriter has agreed to underwrite a transaction with a retail order period, it will take reasonable measures to ensure that retail clients are bona fide.

Dealer Payments to District Personnel. Reimbursements, if any, made to personnel of the District will be made in compliance with MSRB Rule G-20, on gifts, gratuities, and non-cash compensation, and Rule G-17, in connection with certain payments made to, and expenses reimbursed for, District personnel during the municipal bond issuance process.

Disclosures Concerning Complex Municipal Securities Financing

Since the Underwriter has not recommended a "complex municipal securities financing" to the Issuer, additional disclosures regarding the financing structure for the Bonds are not required under MSRB Rule G-17.

SECTION 4



Global Corporate Trust
500 West Cypress Creek Road, Suite 460
Fort Lauderdale, Florida 33309

November 24, 2023

George Flint
Governmental Management Services – Central Florida, LLC
219 East Livingston Street
Orlando, Florida 32801

Re: Kepler Road Community Development District
Special Assessment/Capital Improvement Bonds, Series 2024

Mr. Flint:

Thank you for the opportunity to provide our services to Kepler Road Community Development District. This letter will confirm U.S. Bank's fee structure for the referenced issuance.

Acceptance Fee	\$2,125
Closing Expenses	\$150 (Not to Exceed)
Annual Trustee, Paying Agent & Registrar Fee (0.033% of Bonds O/S, Min \$3,950 & Max \$7,950)	\$3,950 (Est.)
Pivot (Online document access and reporting)	Waived
Ongoing Out-of-Pocket Expenses	7.75% of Annual Fees
Trustee Counsel Fee	\$6,000 (Not to Exceed)

Extraordinary Administration Services ("EAS") are duties, responsibilities or activities not expected to be provided by the trustee or agent at the outset of the transaction, not routine or customary, and/or not incurred in the ordinary course of business, and which may require analysis or interpretation. Billing for fees and expenses related to EAS is appropriate in instances where particular inquiries, events or developments are unexpected, even if the possibility of such circumstances could have been identified at the inception of the transaction, or as changes in law, procedures, or the cost of doing business demand. At our option, EAS may be charged on an hourly (time expended multiplied by current hourly rate), flat or special fee basis at such rates or in such amounts in effect at the time of such services, which may be modified by us in our sole discretion from time to time. In addition, all fees and expenses incurred by the trustee or agent, in connection with the trustee's or agent's EAS and ordinary administration services and including without limitation the fees and expenses of legal counsel, financial advisors and other professionals, charges for document amendments and substitutions, tenders, optional redemptions, UCC filings, investment agreements, outside held money market funds, default administration, wire transfers, checks, internal transfers and securities transactions, travel expenses, communication costs, postage (including express mail and overnight delivery charges), copying charges and the like will be payable, at cost, to the trustee or agent. EAS fees are due and payable in addition to annual or ordinary administration fees. Failure to pay for EAS owed to U.S. Bank within 45 days may result in interest being charged on amounts owed to U.S. Bank for EAS fees and expenses at the prevailing market rate. This proposal and the fees detailed herein are subject in all aspects to U.S. Bank's review and acceptance of the final financing documents which set forth our duties and responsibilities. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the terms and conditions set forth herein, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related expenses will be billed to the client directly.

All fees and expenses are payable in advance. Again, thank you for the opportunity to provide our services to the District and the District's professional team. Please contact me at 954.938.2476 if you have any questions or need any additional information.

Sincerely,

Scott A. Schuhle

Scott A. Schuhle, Vice President

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a Trust or other legal entity we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and other relevant documentation from individuals claiming authority to represent the entity.

SECTION B

**BOND FINANCING TEAM FUNDING AGREEMENT
BETWEEN THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT AND
TLC TRINITY GARDENS, LLC**

This Bond Financing Team Funding Agreement (the “Agreement”) is made and entered into this ___ day of _____ 2023, by and between:

COUNTY ROAD 33 COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, and located in the City of Leesburg, Florida (the “District”), with a mailing address c/o Governmental Management Services – Central Florida, LLC, 219 East Livingston Street, Orlando, Florida 32801, and

TLC TRINITY GARDENS, LLC, a Florida limited liability company and a landowner in the District with a mailing address of 605 Commonwealth Avenue, Orlando, Florida 32803 (the “Developer”).

RECITALS

WHEREAS, the District was established by Ordinance No. 2023-27, adopted by the City Commission of the City of Deland, Florida, effective as of November 20, 2023, for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

WHEREAS, the District presently expects to access the public bond market to provide for the financing of certain capital improvements, facilities, and services to benefit the lands located within the District; and

WHEREAS, the District and the Developer desire to enter into this Agreement to provide funds to enable the District to commence its financing program.

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. PROVISION OF FUNDS. Developer agrees to make available to the District such monies as are necessary to proceed with the issuance of bonds or other indebtedness to fund the District’s improvements, facilities and services.

A. Developer agrees to provide to the District any such monies upon receipt of an invoice from the District requesting such funds. Such funds, and all future funds provided pursuant to this Agreement, may be supplied by check, cash, wire transfer or other form of payment deemed satisfactory in the sole discretion of the District as determined by the District Manager. The District agrees to authorize District staff, including the District Engineer, District Manager, and District Counsel to proceed with the work contemplated by this Agreement, and to retain a

Bond Counsel and Methodology Consultant and other professional assistance as may be necessary to proceed with the work contemplated by this Agreement.

B. Developer and the District agree that all fees, costs or other expenses incurred by the District for the services of the District's Engineer, Counsel, Methodology Consultant or other professionals, for the work contemplated by this Agreement shall be paid solely from the funds provided by Developer pursuant to this Agreement. Such payments shall be made in accordance with the District's normal invoice and payment procedures. The District agrees that any funds provided by Developer pursuant to this Agreement shall be used solely for fees, costs, and expenses arising from or related to the work contemplated by this Agreement.

C. The District agrees to provide to Developer, on a monthly basis, copies of all invoices, requisitions, or other bills for which payment is to be made from the funds provided by Developer. The District agrees to provide to Developer, monthly, a statement from the District Manager showing funds on deposit prior to payment, payments made, and funds remaining on deposit with the District.

D. Developer agrees to provide funds within fifteen (15) days of receipt of written notification from the District Manager of the need for such funds.

E. In the event that Developer fails to provide any such funds pursuant to this Agreement, Developer and the District agree the work may be halted until such time as sufficient funds are provided by Developer to ensure payment of the costs, fees or expenses which may be incurred in the performance of such work.

2. TERMINATION. Developer and District agree that Developer may terminate this Agreement without cause by providing ten (10) days written notice of termination to the District. Any such termination by Developer is contingent upon Developer's provision of sufficient funds to cover any and all fees, costs or expenses incurred by the District in connection with the work to be performed under this Agreement as of the date by when notice of termination is received. Developer and the District agree that the District may terminate this Agreement due to a failure of Developer to provide funds in accordance with Section 1 of this Agreement, by providing ten (10) days written notice of termination to Developer; provided, however, that the Developer shall be provided a reasonable opportunity to cure any such failure.

3. CAPITALIZATION. The parties agree that all funds provided by Developer pursuant to this Agreement may be reimbursable from proceeds of District financing for capital improvements, and that within forty-five (45) days of receipt of the proceeds by the District of bonds or notes for the District's capital projects, the District shall reimburse Developer in full, exclusive of interest, for these advances; provided, however, that in the event Bond Counsel determines that any such monies are not properly reimbursable, such funds shall be deemed paid in lieu of taxes or assessments. In the event that District bonds are not issued within five (5) years of the date of this Agreement, all funds provided by Developer pursuant to this Agreement shall be deemed paid in lieu of taxes or assessments.

4. DEFAULT. A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief and/or specific performance.

5. ENFORCEMENT OF AGREEMENT. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorney's fees and costs for trial, alternative dispute resolution, or appellate proceedings.

6. AGREEMENT. This instrument shall constitute the final and complete expression of this Agreement between the parties relating to the subject matter of this Agreement.

7. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto.

8. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

9. NOTICES. All notices, requests, consents and other communications hereunder ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

A. If to District: Kepler Road Community Development District
219 East Livingston Street
Orlando, Florida 32801
Attn: District Manager

With a copy to: Kutak Rock LLP
107 West College Avenue
Tallahassee, Florida 32301
Attn: District Counsel

B. If to Developer: TLC Trinity Gardens, LLC
605 Commonwealth Avenue
Orlando, Florida 32803
Attn: _____

Except as otherwise provided herein, any Notice shall be deemed received only upon actual delivery at the address set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal

holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notice on behalf of the parties. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

10. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.

11. ASSIGNMENT. Neither party may assign this Agreement or any monies to become due hereunder without the prior written approval of the other party.

12. CONTROLLING LAW. This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue shall be in Lake County, Florida.

13. EFFECTIVE DATE. The Agreement shall be effective after execution by both parties hereto and shall remain in effect unless terminated by either of the parties hereto.

14. PUBLIC RECORDS. Developer understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, Developer agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to section 119.0701, *Florida Statutes*. Developer acknowledges that the designated public records custodian for the District is **George Flint** (“Public Records Custodian”). Among other requirements and to the extent applicable by law, the Developer shall 1) keep and maintain public records required by the District to perform the service; 2) upon request by the Public Records Custodian, provide the District with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the Developer does not transfer the records to the Public Records Custodian of the District; and 4) upon completion of the contract, transfer to the District, at no cost, all public records in Developer’s possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Developer, the Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the District in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (407) 841-5524, GEORGE FLINT, GFLINT@GMSCFL.COM, OR 219 EAST LIVINGSTON STREET, ORLANDO, FLORIDA 32801.

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IN WITNESS WHEREOF, the parties execute this Agreement to be effective the day and year first written above.

ATTEST:

**KEPLER ROAD 33 COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairman, Board of Supervisors

TLC TRINITY GARDENS, LLC, a
Florida limited liability company

WITNESSES:

Print Name: _____

By: _____
Its: _____

Print Name: _____

SECTION VII

SECTION C

Kepler Road
Community Development District

Funding Request #1
December 4, 2023

Bill to:

	Payee	General Fund FY2024
1	Funds to open Operating Account	\$ 5,000.00
2	Insurance - Fiscal Year 2024	\$ 5,000.00
3	ADA Website Creation	\$ 1,750.00
4	Legal Advertising	\$ 5,000.00
		\$ 16,750.00
		Total: \$ 16,750.00

Please make check payable to:

Kepler Road Community Development District
219 E Livingston Street
Orlando, FL 32801