



DEVELOPMENT PLANNING & FINANCING GROUP, INC.

***AVALON GROVES
COMMUNITY
DEVELOPMENT DISTRICT***

Agenda Package

***Board of Supervisors
Meeting***

Date & Time:

Thursday

August 25, 2016

11:30 a.m.

Location:

***Cagan Crossing
Community Library
16729 Cagan Oaks
Clermont, Florida***

Note: The Advanced Meeting Package is a working document and thus all materials are considered DRAFTS prior to presentation and Board acceptance, approval or adoption.

Avalon Groves Community Development District

Development Planning and Financing Group

[X] 1060 Maitland Center Commons, Suite 340
Maitland, Florida 32751
321-263-0134

[] 15310 Amberly Drive, Suite 175
Tampa, Florida 33647
813-374-9105

August 18, 2016

Board of Supervisors
**Avalon Groves Community
Development District**

Dear Board Members:

The Regular Meeting of the Board of Supervisors of the Avalon Groves Community Development District is scheduled for August 25, 2016 at 11:30 a.m. at the Cagan Crossing Community Library 16729 Cagan Oaks Clermont, Florida.

The advanced copy of the agenda for the meeting is attached along with associated documentation for your review and consideration. Any additional support material will be distributed at the meeting.

The balance of the agenda is routine in nature. Staff will present their reports at the meeting. If you have any questions, please contact me. I look forward to seeing you there.

Sincerely,

Patricia Comings-Thibault

Patricia Comings-Thibault
District Manager

cc: Attorney
Engineer
District Records

District: AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT
Date of Meeting: **Thursday August 25th, 2016**
Time: 11:30 p.m.
Location: Cagan Crossing Community Library
16729 Cagan Oaks
Clermont, FL

Dial-in Number: 712-775-7031
Guest Access Code: 109-516-380

Agenda

I. Roll Call

II. Audience Comments

III Consent Agenda

- A. Approval of Minutes of April 28, 2016 Meeting Exhibit 1

IV. Business Items

- A. Consideration and Adoption of Resolution 2016-22 Canvassing
And Certifying the Landowners Election Exhibit 2
- B. Consideration and Adoption of Resolution 2016-23 Officers Exhibit 3

V. Public Hearing Regarding the Fiscal Year 2015/2016 Budget

- A. Open Public Hearing
- B. Presentation of the FY 2015/2016 Budget Exhibit 4
- C. Public Comment
- D. Close Public Hearing
- E. Consideration of Resolution 2016-24, Annual Appropriation
Resolution Adopting the Fiscal Year 2015/2016 Budget Exhibit 5

VI Public Hearing Regarding the Fiscal Year 2016/2017 Budget

- A. Open Public Hearing
- B. Presentation of the FY 2016/2017 Budget Exhibit 6
- C. Public Comment

- D. Close Public Hearing
- E. Consideration of Resolution 2016-25, Annual Appropriation Resolution Adopting the Fiscal Year 2016/2017 Budget Exhibit 7
- F. Consideration of the Fiscal Year 2016/2017 Budget Funding Agreement Exhibit 8

VII. Public Hearing Regarding the District's Intent to Use the Uniform Method of Collecting Assessments as Imposed by the District

- A. Open Public Hearing
- B. Review and Discussion Regarding the Uniform Method of Collection
- C. Public Comment
- D. Close Public Hearing
- E. Consideration of Resolution 2016-26 Adopting the Uniform Method of Collecting Assessments as Imposed by the District Exhibit 9

VIII. Public Hearing on Rules of Procedure

- A. Open Public Hearing
- B. Presentation of the Rules of Procedure Exhibit 10
- C. Public Comment
- D. Close Public Hearing
- E. Consideration and Approval of Resolution 2016-27 Adopting the Rules Of Procedure for the Avalon Groves Community Development District Exhibit 11

- IX. Consideration of Resolution 2016-28, Designating Dates, Time and Location For Regular Meetings of the Board of Supervisors of the District Exhibit 12

X. Staff Reports

- A. Manager
- B. Attorney

X. Supervisors Requests

XI. Adjournment

EXHIBIT 1

1 **MINUTES OF MEETING**
2 **AVALON GROVES**
3 **COMMUNITY DEVELOPMENT DISTRICT**
4

5 A Regular Meeting of the Board of Supervisors of the Avalon Groves Community Development
6 District was held on Thursday, April 28, 2016 at 11:30 a.m. at the Cagan Crossing Community Library,
7 16729 Cagan Oaks, Clermont, Florida 34714.

8 **FIRST ORDER OF BUSINESS – Roll Call**

9 Ms. Patricia Comings-Thibault called the meeting to order.

10 Present and constituting a quorum were:

11 James Harvey	Board Supervisor, Chairman
12 Greg Meath	Board Supervisor, Vice Chairman
13 Brad Walker	Board Supervisor, Assistant Secretary
14 David Langhout	Board Supervisor, Assistant Secretary

15
16 Also present were:

17 Patricia Comings-Thibault	District Manager
18 Roy Van Wyk	District Counsel
19 Alyssa Willson	District Counsel
20 Stephen Sanford	Greenberg Traurig (via telephone)
21 Tim Plate	District Engineer (via telephone)

22 **Pledge of Allegiance**

23 **ORGANIZATIONAL MEETING**

24 **1. Call to Order**

25 **2. Public Comment Period**

26 There being none, next item followed.

27 **3. Oath of Office for Supervisors**

28 Ms. Comings-Thibault stated she had a signed Oath of Office Form from David Langhout, Greg
29 Meath and Brad Walker and asked Mr. Harvey to read and sign. She also notified the supervisors that
30 they were entitled to compensation of \$200 per meeting and asked whether they would like to receive or
31 waive compensation.

32 Mr. Langhout, Mr. Walker, Mr. Meath and Mr. Harvey declined compensation.

33 **4. Review of Chapter 190, Florida Statutes**

34 Ms. Willson explained Chapter 190, Florida Statutes and asked for comments or questions.

35 **5. Review of Guide to Sunshine Amendment and Code of Ethics for Public Officers**
36 **and Employees (under separate cover to be distributed by Hopping Green & Sams)**

37 Ms. Willson explained the Sunshine Law and Code of Ethics and asked for comments or
38 questions.

39 **6. Administrative Resolutions**

40 **A. Consideration of Resolution 2016-1 Appoint Chairman, Vice Chairman,**
41 **Treasurer, Assistant Treasurer and Assistant Secretary**

42 Ms. Comings-Thibault presented Resolution 2016-1 Appoint Chairman, Vice Chairman,
43 Treasurer, and Assistant Secretary and asked for comments or questions.

44 Discussion ensued.

45 *Chairman:*
46 Nominate: James Harvey

47 *Vice Chairman:*
48 Nominate: Greg Meath

49 *Assistant Secretary:*
50 Nominate: David Langhout

51 *Assistant Secretary:*
52 Nominate: Troy Simpson

53 *Assistant Secretary:*
54 Nominate: Brad Walker

55 *Secretary/Treasurer:* Patricia Comings-Thibault

56 *Assistant Treasurer:* Mike Aagaard

57 *Assistant Secretaries:* Carolyn Stewart and Janet Johns

58 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board adopted
59 Resolution **2016-1** Appointing Mr. Harvey as Chairman, Mr. Meath as Vice Chairman, Mr. Langhout,
60 Mr. Simpson, and Mr. Walker as Assistant Secretaries, Patricia Comings-Thibault as Secretary/Treasurer,
61 Mr. Aagaard as Assistant Treasurer, and Carolyn Stewart and Janet Johns as Assistant Secretaries for the
62 Avalon Groves Community Development District.

63
64 **B. Consideration of Resolution 2016-2 Appointing DPFG as the District**
65 **Manager**

66 1. District Management Agreement and Resolution

67 Ms. Comings-Thibault presented the District Management Agreement and Resolution
68 and asked for comments or questions.

69 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board adopted
70 Resolution **2016-2** Appointing DPFG as the District Manager for the Avalon Groves Community
71 Development District.

72
73 **C. Consideration of Resolution 2016-3 Appoint Secretary – Patricia Comings-**
74 **Thibault**

75 Ms. Comings-Thibault presented Resolution 2016-3 Appoint Secretary – Patricia
76 Comings-Thibault and asked for comments or questions.

77 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
78 adopted Resolution **2016-3** Appoint Secretary – Patricia Comings-Thibault for the Avalon Groves
79 Community Development District.

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81
82

83 **D. Consideration Resolution 2016-4 Appoint District Counsel – Hopping Green &**
84 **Sams**

85 Ms. Comings-Thibault presented Resolution 2016-4 Appoint District Counsel and asked
86 for comments or questions.

87 On a MOTION by Mr. Harvey, SECONDED by Mr. Walker, WITH ALL IN FAVOR, the Board adopted
88 Resolution **2016-4** Appoint District Counsel – Hopping Green & Sams for the Avalon Groves
89 Community Development District.

90

91 **E. Consideration Resolution 2016-5 Designate Registered Agent and Registered**
92 **Office**

93 Ms. Comings-Thibault presented Resolution 2016-5 Designate Registered Agent and
94 Registered Office – Hopping Green & Sams, 119 South Monroe, Tallahassee, Florida and asked for
95 comments or questions.

96 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
97 adopted Resolution **2016-5** Designate Registered Agent and Registered Office as Hopping Green & Sams,
98 119 South Monroe, Tallahassee, Florida for the Avalon Groves Community Development District.

99

100 **F. Consideration of Resolution 2016-6 Designate Local District Records Office**

101 Ms. Comings-Thibault presented Resolution 2016-6 Designate Local District Records
102 Office as the City of Tavares in Lake County, Florida and asked for comments or questions.

103 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
104 adopted Resolution **2016-6** Designate Local District Records Office as the City of Tavares in Lake
105 County, Florida for the Avalon Groves Community Development District.

106

107 **G. Consideration of Resolution 2016-7 Designating Public Comment Period**

108 Ms. Comings-Thibault presented Resolution 2016-7 Designating Public Comment Period
109 and asked for comments or questions.

110 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board adopted
111 Resolution **2016-7** Designating Public Comment Period for the Avalon Groves Community Development
112 District.

113

114 **7. Organizational Resolutions**

115 **A. Consideration of Resolution 2016-8 Consideration of Travel Reimbursement**

116 **Policy**

117 Ms. Comings-Thibault presented Resolution 2016-8 Consideration of Travel Reimbursement
118 Policy and asked for comments or questions.

119 On a MOTION by Mr. Harvey, SECONDED by Mr. Walker, WITH ALL IN FAVOR, the Board adopted
120 Resolution **2016-8** Consideration of Travel Reimbursement Policy for the Avalon Groves Community
121 Development District.

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125

126 **B. Consideration of Resolution 2016-9 Setting Forth District Policy for Legal**
127 **Defense of Board Members and Officers, and other District Staff Members**
128 Ms. Comings-Thibault presented Resolution 2016-9 Setting Forth District Policy for
129 Legal Defense of Board members and Officer, and other District Staff Members and asked for comments
130 or questions.

131 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
132 adopted Resolution **2016-9** Setting Forth District Policy for Legal Defense of Board Members and
133 Officers, and other District Staff Members for the Avalon Groves Community Development District.

134
135 **1. Authorization to Obtain Public Officers Liability**
136 **Insurance**

137 Ms. Comings-Thibault presented Authorization to Obtain Public Officers Liability
138 Insurance and asked for comments or questions.

139 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board agreed
140 to Obtain Public Officers Liability Insurance for the Avalon Groves Community Development District.

141
142 **C. Consideration of Resolution 2016-10 Authorizing the Filing of Notice of**
143 **Establishment**

144 Ms. Comings-Thibault presented Resolution 2016-10 Authorizing the Filing of Notice of
145 Establishment and asked for comments or questions.

146 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
147 adopted Resolution **2016-10** Authorizing the Filing of Notice of Establishment for the Avalon Groves
148 Community Development District.

149
150 **D. Consideration of Resolution 2016-11 Adopting Records Retention Schedule**
151 **and Providing for the Appointment of a Records Management Liaison**
152 **Officer, an Employee of the District Manager**

153 Ms. Comings-Thibault presented Resolution 2016-11 Adopting Records Retention
154 Schedule and Providing for the Appointment of a Records Management Liaison Officer, an Employee of
155 the District Manager, and asked for comments or questions.

156 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
157 adopted Resolution **2016-11** Adopting Records Retention Schedule and Providing for the Appointment of
158 a Records Management Liaison Officer, an Employee of the District Manager, for the Avalon Groves
159 Community Development District.

160
161 **E. Consideration of Retention of Interim Engineer**

162 Ms. Comings-Thibault presented Retention of Interim Engineer and asked for comments
163 or questions.
164 Discussion ensued. Tim Plate and Gary Miller will be the interim Engineers.

165 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board agreed
166 to Heidt Design as Interim Engineer, and Services shall not exceed \$25,000 under this Contract for the
167 Avalon Groves Community Development District.

168
169 **F. Authorize the Issuance of an RFQ for District Engineer**

170 This item was tabled.

171 **8. Designation of Meeting and Hearing Dates Resolutions**

172 **A. Consideration of Establishment of Audit Committee**

173 Ms. Comings-Thibault presented Establishment of Audit Committee and asked for
174 comments or questions.

175 Discussion ensued. The sitting Board shall be the members of the Audit Committee.

176 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
177 agreed that the sitting Board shall be members of the Audit Committee for the Avalon Groves
178 Community Development District.

179

180 **B. Designate Regular Meeting Dates, Time and Location**

181 Ms. Comings-Thibault presented Regular Meeting Dates, Time and Location and asked
182 for comments or questions.

183 Discussion ensued.

184 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board agreed
185 to meet on the last Thursday of every Month at 11:30 a.m. at the Cagan Crossing Library, Lake County,
186 Florida for the Avalon Groves Community Development District.

187

188 **C. Consideration of Resolution 2016-12 Consideration of Proposed Budget for**
189 **FY 2015/2016 and FY 2016/2017 for submission to County and City, and Set**
190 **Date, Time, and Place for Public Hearing**

191 Ms. Comings Thibault presented Resolution 2016-12 Consideration of Proposed Budget
192 for FY 2015/2016 and FY 2016/2017 for Submission to County and City, and Set Date, Time, and Place
193 for the Public Hearing, and asked for comments or questions.

194 Discussion ensued.

195 On a MOTION by Mr. Harvey, SECONDED by Mr. Walker, WITH ALL IN FAVOR, the Board adopted
196 Resolution **2016-12** Proposed Budget for FY 2015/2016 and FY 2016/2017 for Submission to the County
197 and City, and Set Date, Time, and Place for the Public Hearing to be held on August 25, 2016 at 11:30
198 a.m. at the Cagan Crossings Library, 16729 Cagan Oaks, Clermont, Florida for the Avalon Groves
199 Community Development District.

200

201 **1. Consideration of FY Funding Agreement**

202 Ms. Comings-Thibault presented FY Funding Agreement and asked for comments or
203 questions.

204 Discussion ensued.

205 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board
206 approved the FY Funding Agreement in substantial form and subject to District Counsel sign off, for the
207 Avalon Groves Community Development District.

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211 **D. Consideration of Resolution 2016-13 Set Date, Time and Place, and**
212 **Authorize Publication of Notice of Public Hearing on Rules of Procedure**
213 Ms. Comings-Thibault presented Resolution 2016-13 Set Date, Time and Place, and
214 Authorize Publication of Notice of Public Hearing on Rules of Procedure and asked for comments or
215 questions.

216 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board adopted
217 Resolution **2016-13** Set Date, Time and Place and Authorize Publication of Notice of Public Hearing on
218 Rules of Procedure for August 25, 2016 at 11:30 a.m. at the Cagan Crossings Library, 16729 Cagan Oaks,
219 Clermont, Florida for the Avalon Groves Community Development District.

220
221 **E. Consideration of Resolution 2016-14 Set Date, Time and Location and**
222 **Authorize Publication of Notice of Public Hearing on Uniform Method of**
223 **Collection**
224 Ms. Comings-Thibault presented Resolution 2016-14 Set Date, Time and Location and
225 Authorize Publication of Notice of Public Hearing on Uniform Method of Collection and asked for
226 comments or questions.

227 On a MOTION by Mr. Harvey, SECONDED by Mr. Walker, WITH ALL IN FAVOR, the Board adopted
228 Resolution **2016-14** Set Date, Time and Location and Authorize Publication of Notice of Public Hearing
229 on Uniform Method of Collection for August 25, 2016 at 11:30 a.m. at the Cagan Crossings Library,
230 16729 Cagan Oaks, Clermont, Florida for the Avalon Groves Community Development District.

231
232 **F. Consideration of Resolution 2016-15 Set Date, Time and Location and**
233 **Authorize Publication of Notice of Landowners Meeting**
234 Ms. Comings-Thibault presented Resolution 2016-15 Set Date, Time and Location and
235 Authorize Publication of Notice of Landowners Meeting and asked for comments or questions.

236 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board adopted
237 Resolution **2016-15** Set Date, Time and Location and Authorize Publication of Notice of Landowners
238 Meeting for June 23, 2016 at 11:30 a.m. at the Cagan Crossings Library, 16729 Cagan Oaks, Clermont,
239 Florida for the Avalon Groves Community Development District.

240
241 **9. Resolutions Relating to Banking**

242 **A. Consideration of Resolution 2016-16 Select District Depository**
243 Ms. Comings-Thibault presented Resolution 2016-16 Select District Depository and
244 asked for comments or questions.
245 Discussion ensued. The Board selected Bank United.

246 On a MOTION by Mr. Harvey, SECONDED by Mr. Walker, WITH ALL IN FAVOR, the Board adopted
247 Resolution **2016-16** Select District Depository and Selected Bank United for the Avalon Groves
248 Community Development District.

249
250 **B. Consideration of Resolution 2016-17 Authorize Bank Account Signatories**
251 Ms. Comings-Thibault presented Resolution 2016-17 Authorize Bank Account
252 Signatories and asked for comments or questions.

253 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board adopted
254 Resolution **2016-17** Authorize Bank Account Signatories and authorized Ms. Comings-Thibault as
255 Treasurer and Mr. Aagaard as Assistant Treasurer for the Avalon Groves Community Development
256 District.

257
258 **C. Consideration of Resolution 2016-18 Approve Disbursement for Expenses**
259 Ms. Comings-Thibault presented Resolution 2016-18 Approve Disbursement for
260 Expenses and asked for comments or questions.

261 On a MOTION by Mr. Langhout, SECONDED by Mr. Harvey, WITH ALL IN FAVOR, the Board
262 adopted Resolution **2016-18** Approve Disbursement for Expenses for the Avalon Groves Community
263 Development District.

264
265 **10. Consideration of Funding and Expense Issues**
266 **A. Consideration of Funding \$17,120 Request**
267 Ms. Comings –Thibault presented Funding \$17,120 Request and asked for comments or
268 questions.

269 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
270 approved the Funding \$17,120 Request for the Avalon Groves Community Development District.

271
272 **11. Consideration of Bond Issuance Matters**
273 **A. Appointment of Financing Team**
274 **1. Consideration of Financing Team Funding Agreement**
275 Ms. Comings-Thibault presented the Financing Team Funding Agreement and asked for
276 comments or questions.

277 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
278 approved the Agreement between Avalon Groves CDD and Kolter Acquisitions to Support the Bond
279 Financing Team Funding for the Avalon Groves Community Development District.

280
281 **2. Consideration of Appointing Bond Counsel**
282 Ms. Comings-Thibault presented Appointing Bond Counsel and asked for comments or
283 questions.

284 Discussion ensued. The Board appointed Greenberg Traurig.

285 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
286 approved appointing Greenberg Traurig as Bond Counsel for the Avalon Groves Community
287 Development District.

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297 **3. Consideration of Appointing FMS Bonds for Underwriter Services**
298 **& G-17 Disclosure**

299 Ms. Comings-Thibault presented Appointing FMS Bonds for Underwriter Services and
300 G-17 Disclosure.

301 On a MOTION by Mr. Langhout, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board
302 approved appointing FMS Bonds for Underwriter Services & G-17 Disclosure for the Avalon Groves
303 Community Development District.

304
305 **4. Consideration of Selection of Trustee Regions Bank**

306 Ms. Comings-Thibault presented Selection of Trustee Regions Bank and asked for
307 comments or questions.

308 On a MOTION by Mr. Harvey, SECONDED by Mr. Langhout, WITH ALL IN FAVOR, the Board
309 approved selecting Trustee Regions Bank for the Avalon Groves Community Development District.

310
311 **B. Consideration of Engineer's Report**

312 Mr. Plate presented a Preliminary Engineer's Report and asked for comments or
313 questions.

314 Discussion ensued.

315 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board
316 approved the Preliminary Engineer's Report for the Avalon Groves Community Development District.

317
318 **C. Consideration of Assessment Methodology**

319 This item was tabled.

320 **D. Consideration of Resolution 2016-19 Declaring Special Assessments**

321 This item was tabled.

322 **E. Consideration of Resolution 2016-20 Setting the Public Hearing on Special**
323 **Assessments**

324 This item was tabled.
325

326 **F. Consideration of Resolution 2016-21 Authorizing the Issuance of Bonds,**
327 **Approving the Form of an Indenture, and Authorizing the Commencement**
328 **of Validation Proceedings**

329 Mr. Sanford gave an overview of Resolution 2016-21 Authorizing the Issuance of Bonds,
330 Approving the Form of an Indenture, and Authorizing the Commencement of Validation Proceedings and
331 asked for comments or questions.

332 On a MOTION by Mr. Harvey, SECONDED by Mr. Meath, WITH ALL IN FAVOR, the Board adopted
333 Resolution **2016-21** Authorizing the Issuance of Bonds, Approving the Form of an Indenture, and
334 Authorizing the Commencement of Validation Proceedings for the Avalon Groves Community
335 Development District.

336
337 **12. Staff Reports**

338 **A. Manager**

339 There being none, next item followed.

340 **B. Attorney**

341 There being none, the next item followed.

342 **C. Engineer**

343 There being none, the next item followed.

344 **13. Supervisor Requests and Public Comments**

345 There being none, the next item followed.

346 **14. Adjournment**

347 On a MOTION by Mr. Meath, SECONDED by Mr. Walker, WITH ALL IN FAVOR, the Board agreed
348 to adjourn the Board of Supervisors meeting for the Avalon Groves Community Development District.
349

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

353 **Meeting minutes were approved at a meeting by vote of the Board of Supervisors at a publicly noticed**
354 **meeting held on _____.**

355
356
357 _____
358 **Signature**

357 _____
358 **Signature**

359
360 _____
361 **Printed Name**
362 **Title:** **Secretary** **Assistant Secretary**

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360 _____
361 **Printed Name**
362 **Title:** **Chairman** **Vice Chairman**

363

EXHIBIT 2

RESOLUTION 2016-22

A RESOLUTION CANVASSING AND CERTIFYING THE RESULTS OF THE AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT LANDOWNERS ELECTION OF SUPERVISORS HELD PURSUANT TO SECTION 190.006(2), FLORIDA STATUTES

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

WHEREAS, following proper publication of notice thereof, such landowners meeting was held June 23, 2016 at which the below recited persons were duly elected by virtue of the votes cast in their respective favor; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT;

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

<u>James P. Harvey</u>	1,968 Votes
<u>Greg Meath</u>	1,968 Votes
<u>David Langhout</u>	1,967 Votes
<u>Troy Simpson</u>	1,967 Votes
<u>Brad Walker</u>	1,967 Votes

2. In accordance with said statute, and by virtue of the number of votes cast for the respective Supervisors, they are declared to have been elected for the following terms of office:

<u>James Harvey</u>	four (4) year term
<u>Greg Meath</u>	four (4) year term
<u>David Langhout</u>	two (2) year term
<u>Troy Simpson</u>	two (2) year term
<u>Brad Walker</u>	two (2) year term

3. Said terms of office shall commence immediately upon the adoption of this Resolution.

PASSED AND ADOPTED THIS, 25th DAY OF AUGUST 2016.

Avalon Groves Community Development District

Chairman

Secretary

EXHIBIT 3

RESOLUTION 2016-23

A RESOLUTION DESIGNATING OFFICERS OF THE
AVALON GROVES COMMUNITY DEVELOPMENT
DISTRICT

WHEREAS, the Board of Supervisors of the Avalon Groves Community Development District at the landowners meeting held on June 23, 2016 desires to appoint the below recited persons to the offices specified.

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

1. The following persons were appointed to the offices shown, to wit:

_____	Chairman
_____	Vice Chairman
<u>Patricia Comings-Thibault</u>	Secretary
<u>Patricia Comings-Thibault</u>	Treasurer
<u>Maik Aagaard</u>	Assistant Treasurer
_____	Assistant Secretary
_____	Assistant Secretary
<u>Carolyn Stewart & Janet Johns</u>	Assistant Secretary

2. That this resolution supersedes all previous resolutions and motions designating, electing or appointing officers adopted by the Board of Supervisors of the Avalon Groves Community Development District and are hereby declared null and void.

Adopted this 25th day of August, 2016.

Avalon Groves Community Development District

Chairman

Secretary

EXHIBIT 4

STATEMENT 1
AVALON GROVES
GENERAL FUND
FY 2017 PROPOSED

	FY 2016 PROPOSED	FY 2017 PROPOSED	VARIANCE 2016-2017
REVENUE:			
SPECIAL ASSESEMENTS (LANDOWNER OFF-ROLL)	\$ 55,050	\$ 220,035	\$ 164,985
TOTAL REVENUE:	\$ 55,050	\$ 220,035	\$ 164,985
EXPENDITURES:			
GENERAL ADMINISTRATIVE:			
DISTRICT MANAGEMENT SERVICES	\$ 24,000	\$ 32,000	\$ 8,000
BANK FEES	\$ 150	\$ 150	\$ -
AUDITING	\$ 5,500	\$ 5,500	\$ -
REGULATORY AND PERMIT FEES	\$ 175	\$ 175	\$ -
LEGAL ADVERTISEMENTS	\$ 750	\$ 750	\$ -
ENGINEERING SERVICES	\$ 10,000	\$ 10,000	\$ -
LEGAL SERVICES	\$ 10,000	\$ 10,000	\$ -
TECHNOLOGY & WEBSITE ADMIN.	\$ 675	\$ 960	\$ 285
MISC. OFFICE (PRINTING)	\$ 500	\$ 500	\$ -
TOTAL GENERAL ADMIN.	\$ 51,750	\$ 60,035	\$ 8,285
INSURANCE:			
INSURANCE (PUBLIC OFFICIALS)	\$ 3,300	\$ 3,300	\$ -
INSURANCE (PROPERTY & CASUALTY)	\$ -	\$ 7,500	\$ 7,500
TOTAL INSURANCE	\$ 3,300	\$ 10,800	\$ 7,500
DEBT SERVICE ADMIN. :			
DISCLOSURE REPORT	\$ -	\$ 5,000	\$ 5,000
ARBITRAGE REBATE	\$ -	\$ 700	\$ 700
TRUSTEE FEES	\$ -	\$ 3,500	\$ 3,500
TOTAL DEBT SERVICE ADMIN.	\$ -	\$ 9,200	\$ 9,200
UTILITIES:			
UTILITIES-ELECTRICITY	\$ -	\$ 2,500	\$ 2,500
TOTAL UTILITIES:	\$ -	\$ 2,500	\$ 2,500
PHYSICAL ENVIRONMENT:			
LAKE & POND MAINTENANCE	\$ -	\$ 2,500	\$ 2,500
LANDSCAPE MAINTENANCE	\$ -	\$ 25,000	\$ 25,000
LANDSCAPE - MISCELLANEOUS	\$ -	\$ 5,000	\$ 5,000
WETLAND MITIGATION & MAINTENANCE	\$ -	\$ 5,000	\$ 5,000
FIELD CONTINGENCY	\$ -	\$ 100,000	\$ 100,000
TOTAL PHYSICAL ENVIRONMENT	\$ -	\$ 137,500	\$ 137,500
RESERVES:			
CAPITAL ASSET RESERVES	\$ -	\$ -	\$ -
TOTAL RESERVES	\$ -	\$ -	\$ -
TOTAL EXPENDITURES:	\$ 55,050	\$ 220,035	\$ 164,985
EXCESS OVER (UNDER) REVENUES:	\$ -	\$ -	\$ -

EXHIBIT 5

RESOLUTION 2016-24

THE ANNUAL APPROPRIATION RESOLUTION OF THE AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT (“DISTRICT”) RELATING TO THE ANNUAL APPROPRIATIONS AND ADOPTING THE BUDGET FOR THE FISCAL YEAR 2015/2016; AUTHORIZING BUDGET AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the District was established by Ordinance No. 2016-16 of the Board of County Commissioners of Lake County, Florida on April 27, 2016; and

WHEREAS, the District Manager on _____, 2016, submitted to the Board of Supervisors (“**Board**”) the proposed budget for Fiscal Year 2015/2016, along with an explanatory and complete financial plan for each fund of the District, pursuant to the provisions of Section 190.008(2)(a), Florida Statutes; and

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

WHEREAS, the Board set August 25, 2016, as the date for a public hearing thereon and caused notice of such public hearing to be given by publication pursuant to Section 190.008(2)(a), Florida Statutes; and

WHEREAS, the District Manager posted the Proposed Budget on the District’s website at least two days before the public hearing, and timely transmitted the Proposed Budget to the administrator of Lake County for posting on its website; and

WHEREAS, Section 190.008(2)(a), Florida Statutes, requires that, prior to October 1st of each year, the District Board, by passage of the Annual Appropriation Resolution, shall adopt a budget for the ensuing fiscal year and appropriate such sums of money as the Board deems necessary to defray all expenditures of the District during the ensuing fiscal year; and

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

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

- b. The District Manager or Treasurer may authorize an increase or decrease in line item appropriations within a fund if the total appropriations of the fund do not increase and if the aggregate change in the original appropriation item does not exceed \$10,000 or 10% of the original appropriation.
- c. By resolution, the Board may increase any appropriation item and/or fund to reflect receipt of any additional unbudgeted monies and make the corresponding change to appropriations or the unappropriated balance.
- d. Any other budget amendments shall be adopted by resolution and consistent with Florida law.

The District Manager or Treasurer must establish administrative procedures to ensure that any budget amendments are in compliance with this Section 3 and Section 189.016 of the Florida Statutes, among other applicable laws. Among other procedures, the District Manager or Treasurer must ensure that any amendments to budget(s) under subparagraphs c. and d. above are posted on the District's website within 5 days after adoption. The District's Secretary is directed to transmit such amendments to the administrator of Lake County for posting on its websites.

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

PASSED AND ADOPTED THIS 25TH DAY OF AUGUST, 2016.

ATTEST:

**AVALON GROVES COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

By: _____

Its: _____

Exhibit 6

STATEMENT 1
 AVALON GROVES
 GENERAL FUND
 FY 2017 PROPOSED

	FY 2016 PROPOSED	FY 2017 PROPOSED	VARIANCE 2016-2017
REVENUE:			
SPECIAL ASSESEMENTS (LANDOWNER OFF-ROLL)	\$ 55,050	\$ 220,035	\$ 164,985
TOTAL REVENUE:	\$ 55,050	\$ 220,035	\$ 164,985
EXPENDITURES:			
GENERAL ADMINISTRATIVE:			
DISTRICT MANAGEMENT SERVICES	\$ 24,000	\$ 32,000	\$ 8,000
BANK FEES	\$ 150	\$ 150	\$ -
AUDITING	\$ 5,500	\$ 5,500	\$ -
REGULATORY AND PERMIT FEES	\$ 175	\$ 175	\$ -
LEGAL ADVERTISEMENTS	\$ 750	\$ 750	\$ -
ENGINEERING SERVICES	\$ 10,000	\$ 10,000	\$ -
LEGAL SERVICES	\$ 10,000	\$ 10,000	\$ -
TECHNOLOGY & WEBSITE ADMIN.	\$ 675	\$ 960	\$ 285
MISC. OFFICE (PRINTING)	\$ 500	\$ 500	\$ -
TOTAL GENERAL ADMIN.	\$ 51,750	\$ 60,035	\$ 8,285
INSURANCE:			
INSURANCE (PUBLIC OFFICIALS)	\$ 3,300	\$ 3,300	\$ -
INSURANCE (PROPERTY & CASUALTY)	\$ -	\$ 7,500	\$ 7,500
TOTAL INSURANCE	\$ 3,300	\$ 10,800	\$ 7,500
DEBT SERVICE ADMIN. :			
DISCLOSURE REPORT	\$ -	\$ 5,000	\$ 5,000
ARBITRAGE REBATE	\$ -	\$ 700	\$ 700
TRUSTEE FEES	\$ -	\$ 3,500	\$ 3,500
TOTAL DEBT SERVICE ADMIN.	\$ -	\$ 9,200	\$ 9,200
UTILITIES:			
UTILITIES-ELECTRICITY	\$ -	\$ 2,500	\$ 2,500
TOTAL UTILITIES:	\$ -	\$ 2,500	\$ 2,500
PHYSICAL ENVIRONMENT:			
LAKE & POND MAINTENANCE	\$ -	\$ 2,500	\$ 2,500
LANDSCAPE MAINTENANCE	\$ -	\$ 25,000	\$ 25,000
LANDSCAPE - MISCELLANEOUS	\$ -	\$ 5,000	\$ 5,000
WETLAND MITIGATION & MAINTENANCE	\$ -	\$ 5,000	\$ 5,000
FIELD CONTINGENCY	\$ -	\$ 100,000	\$ 100,000
TOTAL PHYSICAL ENVIRONMENT	\$ -	\$ 137,500	\$ 137,500
RESERVES:			
CAPITAL ASSET RESERVES	\$ -	\$ -	\$ -
TOTAL RESERVES	\$ -	\$ -	\$ -
TOTAL EXPENDITURES:	\$ 55,050	\$ 220,035	\$ 164,985
EXCESS OVER (UNDER) REVENUES:	\$ -	\$ -	\$ -

EXHIBIT 7

RESOLUTION 2016-25

THE ANNUAL APPROPRIATION RESOLUTION OF THE AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT (“DISTRICT”) RELATING TO THE ANNUAL APPROPRIATIONS AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016, AND ENDING SEPTEMBER 30, 2017; AUTHORIZING BUDGET AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the District was established by Ordinance No. 2016-16 of the Board of County Commissioners of Lake County, Florida on April 27, 2016; and

WHEREAS, the District Manager on _____, 2016, submitted to the Board of Supervisors (“**Board**”) the proposed budget for Fiscal Year 2016/2017, along with an explanatory and complete financial plan for each fund of the District, pursuant to the provisions of Section 190.008(2)(a), Florida Statutes; and

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

WHEREAS, the Board set August 25, 2016, as the date for a public hearing thereon and caused notice of such public hearing to be given by publication pursuant to Section 190.008(2)(a), Florida Statutes; and

WHEREAS, the District Manager posted the Proposed Budget on the District’s website at least two days before the public hearing, and timely transmitted the Proposed Budget to the administrator of Lake County for posting on its website; and

WHEREAS, Section 190.008(2)(a), Florida Statutes, requires that, prior to October 1st of each year, the District Board, by passage of the Annual Appropriation Resolution, shall adopt a budget for the ensuing fiscal year and appropriate such sums of money as the Board deems necessary to defray all expenditures of the District during the ensuing fiscal year; and

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

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

- b. The District Manager or Treasurer may authorize an increase or decrease in line item appropriations within a fund if the total appropriations of the fund do not increase and if the aggregate change in the original appropriation item does not exceed \$10,000 or 10% of the original appropriation.
- c. By resolution, the Board may increase any appropriation item and/or fund to reflect receipt of any additional unbudgeted monies and make the corresponding change to appropriations or the unappropriated balance.
- d. Any other budget amendments shall be adopted by resolution and consistent with Florida law.

The District Manager or Treasurer must establish administrative procedures to ensure that any budget amendments are in compliance with this Section 3 and Section 189.016 of the Florida Statutes, among other applicable laws. Among other procedures, the District Manager or Treasurer must ensure that any amendments to budget(s) under subparagraphs c. and d. above are posted on the District's website within 5 days after adoption. The District's Secretary is directed to transmit such amendments to the administrator of Lake County for posting on its websites.

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

PASSED AND ADOPTED THIS 25TH DAY OF AUGUST, 2016.

ATTEST:

**AVALON GROVES COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

By: _____

Its: _____

EXHIBIT 8

AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT
FISCAL YEAR 2016/2017 FUNDING AGREEMENT

This agreement (“**Agreement**”) is made and entered into this 25th day of August, 2016, by and between:

The Avalon Groves Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, and located in Lake County, Florida (hereinafter "**District**"), and

Kolter Acquisitions, LLC, a Florida limited liability company and a developer in the District (hereinafter "**Developer**") with an address of 701 S. Olive Avenue, Suite 104, West Palm Beach, Florida 33401

RECITALS

WHEREAS, the District was established by an ordinance adopted by the County Commission of Lake County, 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 2016/2017, which year commences on October 1, 2016, and concludes on September 30, 2017; and

WHEREAS, this general fund 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 2016/2017 Fiscal Year 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 District's 2016/2017 Fiscal Year 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 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 FY 2016/2017 Budget" in the public records of Lake County, Florida, 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 FY 2016/2017 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 Lake County, Florida. 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 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 Lake 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.

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 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:

**Avalon Groves Community
Development District**

Secretary/Assistant Secretary

By: _____
Its: _____

**Kolter Acquisitions, LLC,
a Florida limited liability company**

Witness

By: _____
Its: _____

EXHIBIT A: Property Description

EXHIBIT B: Fiscal Year 2016/2017 General Fund Budget

EXHIBIT 9

RESOLUTION 2016-26

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING, AND ENFORCING NON AD VAL OREM ASSESSMENTS WHICH MAY BE LEVIED BY THE AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTES; PROVIDING A S EVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Avalon Groves Community Development District (“District”) was established pursuant to the provisions of Chapter 190, Florida Statutes, which authorizes the District to levy certain assessments which include benefit and maintenance assessments and further authorizes the District to levy special assessments pursuant to Chapter 170, Florida Statutes, for the acquisition, construction, or reconstruction of assessable improvements authorized by Chapter 190, Florida Statutes; and

WHEREAS, the above referenced assessments are non-ad valorem in nature and, therefore, may be collected under the provisions of Section 197.3632, Florida Statutes, in which the State of Florida has provided a uniform method for the levying, collecting, and enforcing such non-ad valorem assessments; and

WHEREAS, pursuant to Section 197.3632, Florida Statutes, the District has caused notice of a public hearing to be advertised weekly in a newspaper of general circulation within Lake County for four (4) consecutive weeks prior to such hearing.

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

SECTION 1. The Avalon Groves Community Development District upon conducting its public hearing as required by Section 197.3632, Florida Statutes, hereby expresses its intent to use the uniform method of collecting assessments imposed by the District as provided in Chapters 170 and 190, Florida Statutes, each of which are non-ad valorem assessments which may be collected annually pursuant to the provisions of Chapter 190, Florida Statutes, for the purpose of paying principal and interest on any and all of its indebtedness and for the purpose of paying the cost of operating and maintaining its assessable improvements. The legal description of the boundaries of the real property subject to a levy of assessments is attached and made a part of this Resolution as **Exhibit A**. The non-ad valorem assessments and the District’s use of the uniform method of collecting its non-ad valorem assessment(s) may continue in any given year when the Board of Supervisors determines that use of the uniform method for that year is in the best interests of the District.

SECTION 2. The District’s Secretary is authorized to provide the Property Appraiser and Tax Collector of Lake County and the Department of Revenue of the State of Florida with a copy of this Resolution and enter into any agreements with the Property Appraiser and/or Tax Collector necessary to carry out the provisions of this Resolution.

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

PASSED AND ADOPTED this 25th day of August, 2016.

ATTEST:

**AVALON GROVES COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairman, Board of Supervisors

Print Name

Exhibit A: Legal Description

EXHIBIT A

AVALON GROVES LEGAL DESCRIPTION

A PORTION OF SECTIONS 13, 14, 23 AND 24, TOWNSHIP 24 SOUTH, RANGE 26 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE ALONG THE NORTH LINE OF SAID SECTION 13 SOUTH 89°52'45" WEST, A DISTANCE OF 1,324.37 FEET; THENCE CONTINUE ALONG SAID NORTH SECTION LINE SOUTH 89°54'03" WEST, A DISTANCE OF 1,312.89 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 13; THENCE DEPARTING SAID NORTH LINE RUN SOUTH 00°16'10" WEST ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 13, A DISTANCE OF 1,327.17 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE SOUTH 89°53'50" WEST ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4, A DISTANCE OF 1,313.39 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 13; THENCE SOUTH 00°17'28" WEST ALONG THE WEST LINE OF SAID SECTION 13, A DISTANCE OF 1,327.26 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 13; THENCE DEPARTING SAID WEST SECTION LINE, NORTH 89°53'37" EAST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 13, A DISTANCE OF 656.95 FEET; THENCE DEPARTING SAID NORTH LINE SOUTH 00°17'48" WEST, A DISTANCE OF 1,326.10 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 13; THENCE SOUTH 89°54'57" WEST ALONG SAID NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4, A DISTANCE OF 657.32 FEET TO THE NORTHWEST CORNER OF SAID SOUTH 1/2 OF THE SOUTHWEST 1/4; THENCE SOUTH 00°18'46" WEST ALONG THE WEST LINE OF SAID SECTION 13, A DISTANCE OF 331.46 FEET; THENCE DEPARTING SAID WEST SECTION LINE, SOUTH 89°54'36" WEST, A DISTANCE OF 662.10 FEET; THENCE SOUTH 56°20'32" WEST, A DISTANCE OF 1,199.50 FEET; THENCE SOUTH 00°27'18" WEST, A DISTANCE OF 331.63 FEET; THENCE SOUTH 44°59'28" EAST, A DISTANCE OF 467.77 FEET; THENCE NORTH 89°53'36" EAST, A DISTANCE OF 1,326.15 FEET TO A POINT ON THE WEST LINE OF THE AFOREMENTIONED SECTION 24; THENCE SOUTH 00°08'53" WEST ALONG SAID WEST LINE OF SECTION 24, A DISTANCE 2,320.13 FEET; TO THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 24; THENCE CONTINUE ALONG SAID WEST LINE SOUTH 00°12'02" WEST, A DISTANCE OF 1,326.04 FEET TO THE SOUTHWEST CORNER OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 24; THENCE NORTH 89°58'40" EAST ALONG THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 24, A DISTANCE OF 3,588.07 FEET TO THE SE CORNER OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 24; THENCE NORTH 00°12'49" EAST ALONG THE EAST LINE OF SAID SECTION 24, A DISTANCE OF 1324.98 FEET TO

THE NORTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 24; THENCE CONTINUE ALONG SAID EAST LINE NORTH 00°07'27" EAST, A DISTANCE OF 2,655.60 FEET TO THE NORTH EAST CORNER OF SAID SECTION 24, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF AFOREMENTIONED SECTION 13; THENCE NORTH 00°07'04" EAST ALONG THE EAST LINE OF SAID SECTION 13, A DISTANCE OF 664.09 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 13; THENCE SOUTH 89°56'13" WEST ALONG THE NORTH LINE OF THE SOUTH 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 13, A DISTANCE OF 2,646.79 FEET TO THE NORTHWEST CORNER OF SAID SOUTH 1/4 OF THE SOUTHEAST 1/4; THENCE NORTH 00°14'52" EAST ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 OF SECTION 13, A DISTANCE OF 1,326.86 FEET TO THE SOUTHWEST CORNER OF THE NORTH 1/4 OF THE SOUTHEAST 1/4; THENCE NORTH 89°54'29" EAST ALONG THE SOUTH LINE OF SAID NORTH 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 2,643.79 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 13; THENCE NORTH 00°07'04" EAST ALONG SAID EAST LINE, A DISTANCE OF 664.09 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 13, THENCE CONTINUE ALONG SAID EAST LINE NORTH 00°23'14" EAST, A DISTANCE OF 1,327.44 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE NORTHEAST 1/4; THENCE SOUTH 89°53'11" WEST ALONG THE NORTH LINE OF SAID SOUTH 1/2 OF THE NORTHEAST 1/4, A DISTANCE OF 1,322.75 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID NORTHEAST 1/4; THENCE NORTH 00°19'03" EAST ALONG THE EAST LINE OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4, A DISTANCE OF 1,327.26 FEET TO THE POINT OF BEGINNING.

AND LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL

A PARCEL OF LAND LYING IN SECTION 13, TOWNSHIP 24 SOUTH, RANGE 26 EAST OF LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF NORTHWEST 1/4 OF SAID SECTION 13; THENCE NORTH 89°53'37" EAST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 13, A DISTANCE OF 777.95 FEET; THENCE DEPARTING SAID SOUTH LINE RUN SOUTH 00°17'48" WEST, A DISTANCE OF 110.85 FEET FOR POINT OF BEGINNING; THENCE SOUTH 89°58'50" EAST, A DISTANCE OF 250.01 FEET; THENCE NORTH 65°06'51" EAST, A DISTANCE OF 95.33 FEET; THENCE SOUTH 78°01'53" EAST, A DISTANCE OF 56.01 FEET; THENCE NORTH 89°18'54" EAST, A DISTANCE OF 77.65 FEET; THENCE SOUTH 87°09'49" EAST, A DISTANCE OF 100.82 FEET; THENCE NORTH 46°37'36" EAST, A DISTANCE OF 114.82 FEET; THENCE NORTH 34°40'21" EAST, A DISTANCE OF 91.81 FEET; THENCE NORTH 67°21'15" EAST, A DISTANCE OF 60.77 FEET; THENCE SOUTH 81°13'17" EAST, A DISTANCE OF 50.28 FEET; THENCE SOUTH 88°00'55" EAST, A DISTANCE OF 54.43 FEET; THENCE SOUTH 64°02'06" EAST, A DISTANCE OF 45.70 FEET; THENCE SOUTH 24°06'31" EAST, A

DISTANCE OF 35.19 FEET; THENCE SOUTH 06°59'09" WEST, A DISTANCE OF 65.52 FEET; THENCE SOUTH 49°33'12" EAST, A DISTANCE OF 87.21 FEET; THENCE NORTH 41°14'49" EAST, A DISTANCE OF 85.95 FEET; THENCE NORTH 13°08'54" EAST, A DISTANCE OF 53.78 FEET; THENCE NORTH 05°29'09" WEST, A DISTANCE OF 58.52 FEET; THENCE NORTH 43°44'02" EAST, A DISTANCE OF 75.29 FEET; THENCE NORTH 70°43'41" EAST, A DISTANCE OF 47.64 FEET; THENCE SOUTH 48°10'15" EAST, A DISTANCE OF 45.62 FEET; THENCE SOUTH 09°01'01" EAST, A DISTANCE OF 54.75 FEET; THENCE SOUTH 00°34'10" WEST, A DISTANCE OF 37.88 FEET; THENCE SOUTH 04°40'19" EAST, A DISTANCE OF 58.91 FEET; THENCE SOUTH 06°45'16" EAST, A DISTANCE OF 62.02 FEET; THENCE SOUTH 10°11'12" WEST, A DISTANCE OF 69.14 FEET; THENCE SOUTH 20°28'58" WEST, A DISTANCE OF 44.59 FEET; THENCE SOUTH 23°16'19" WEST, A DISTANCE OF 64.98 FEET; THENCE SOUTH 28°37'17" WEST, A DISTANCE OF 107.79 FEET; THENCE SOUTH 59°17'35" WEST, A DISTANCE OF 63.78 FEET; THENCE SOUTH 64°21'03" WEST, A DISTANCE OF 67.33 FEET; THENCE NORTH 88°02'19" WEST, A DISTANCE OF 54.87 FEET; THENCE NORTH 85°21'17" WEST, A DISTANCE OF 35.91 FEET; THENCE NORTH 60°11'01" WEST, A DISTANCE OF 63.37 FEET; THENCE NORTH 30°11'30" WEST, A DISTANCE OF 64.34 FEET; THENCE NORTH 59°53'02" WEST, A DISTANCE OF 42.08 FEET; THENCE NORTH 22°41'12" WEST, A DISTANCE OF 55.08 FEET; THENCE SOUTH 70°31'53" WEST, A DISTANCE OF 85.77 FEET; THENCE SOUTH 00°05'55" EAST, A DISTANCE OF 60.02 FEET; THENCE SOUTH 07°47'15" WEST, A DISTANCE OF 40.56 FEET; THENCE SOUTH 31°49'58" WEST, A DISTANCE OF 52.27 FEET; THENCE SOUTH 26°00'27" WEST, A DISTANCE OF 52.65 FEET; THENCE SOUTH 05°03'54" EAST, A DISTANCE OF 58.32 FEET; THENCE SOUTH 00°20'40" EAST, A DISTANCE OF 57.90 FEET; THENCE SOUTH 34°42'49" WEST, A DISTANCE OF 53.19 FEET; THENCE SOUTH 26°17'01" WEST, A DISTANCE OF 64.58 FEET; THENCE SOUTH 31°22'56" WEST, A DISTANCE OF 53.95 FEET; THENCE SOUTH 14°27'02" EAST, A DISTANCE OF 53.70 FEET; THENCE SOUTH 13°30'14" EAST, A DISTANCE OF 33.14 FEET; THENCE SOUTH 45°17'48" WEST, A DISTANCE OF 186.44 FEET; THENCE NORTH 44°42'12" WEST, A DISTANCE OF 316.25 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 644.00 FEET, A CENTRAL ANGLE OF 45°00'00" AND A CHORD DISTANCE 492.90 FEET WHICH BEARS NORTH 22°12'12" WEST; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 505.80 FEET TO A POINT ON SAID CURVE; THENCE DEPARTING SAID CURVE RUN NORTH 00°17'48" EAST, A DISTANCE OF 158.94 FEET TO THE POINT OF BEGINNING.

CONTAINING 42,308,303 SQUARE FEET OR 971.265 ACRES, MORE OR LESS.

EXHIBIT 10

**RULES OF PROCEDURE
AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT**

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Rule 1.0 General.

- (1) The Avalon Groves 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 by resident electors must be citizens of the United States of America, residents of the State of Florida and of the District, registered to vote with the Supervisor of Elections of the county in which the District is located, and qualified. 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 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 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 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.

- (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 an individual who is qualified to perform the labor. 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 the 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. After the request has been fulfilled, additional payments or credits may be due.
- (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.

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

Law Implemented: §§ 119.0701, 190.006, 119.07, 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 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 (813) 933-5571. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office.”
 - (e) The following 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 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 a notice and an agenda of the meeting/hearing/workshop. The notice and agenda shall be available to the public at least seventy-two (72) hours before the meeting/hearing/workshop except in an emergency. For good cause, the agenda may be changed after it is first made available for distribution. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

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

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

- (4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board’s consideration.
- (5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office.

Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.

- (6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, 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. 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 attorneys 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.

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

Law Implemented: §§ 190.006, 190.007, 190.008, 286.0105, 286.011, 286.0114, 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. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.
- (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 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 sixty (60) 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 one million dollars (\$1,000,000), for a study activity when the fee for such Professional Services to the District does not exceed fifty thousand dollars (\$50,000), 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 federal licenses in good standing, if any;
 - (b) Hold all required applicable state professional licenses in good standing;
 - (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. Consultants who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. 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) 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.

(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 audit selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Audit Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an audit 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 should include at least three individuals, some or all of whom may also serve as members of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board.

(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 federal licenses in good standing, if any;
 - (ii) Hold all required applicable state professional licenses in good standing;
 - (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) Understanding of scope of work;
 - (iv) Ability to furnish the required services; and
 - (v) 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.
- (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 July 1 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. No contract shall continue, or allow the contract to be renewed, for a period of more than three years from the date of its execution. 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, 218.391, 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. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.
 - (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 the 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, 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.

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 the 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 such as 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 take whatever steps reasonably necessary in order to proceed with the procurement of construction services, which steps may include 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 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 3.6 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 such as 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 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) proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals are received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of design-build services, which steps may include 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. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third most qualified firm. 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 the required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;

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

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

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

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

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive 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) 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 take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials, which steps may include 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 period that may not exceed three (3) years or the term of the original contract, whichever period is longer.
- (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 the 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 take whatever steps reasonably necessary in order to proceed with the procurement of maintenance services, which steps may include 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 period that may not exceed three (3) years or the term of the original contract, whichever period is longer.
 - (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 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, the Board may require any person who files a notice of protest to post a protest bond in the amount equal to 1% of the anticipated contract amount

that is the subject of the protest. 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, 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 _____ ____, 2016, 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.

EXHIBIT 11

RESOLUTION 2016-26

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

WHEREAS, the Avalon Groves Community Development District (“District”) is a local unit of special purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated in Lake County, Florida; and

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

WHEREAS, the Board of Supervisors finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as **Exhibit A** for immediate use and application; and

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

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

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

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

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

PASSED AND ADOPTED this 25th day of August, 2016.

ATTEST:

**AVALON GROVES COMMUNITY
DEVELOPMENT DISTRICT**

Print Name: _____
Secretary/Assistant Secretary

Chairperson

Exhibit A: Rules of Procedure

EXHIBIT 12

NOTICE OF MEETINGS
FISCAL YEAR 2017
AVALON GROVES COMMUNITY DEVELOPMENT DISTRICT

As required by Chapters 189 and 190 of Florida Statutes, notice is hereby given that the Fiscal Year 2017 regular meetings of the Board of Supervisors of the Avalon Groves Community Development District are scheduled to be held on the fourth Thursday of every month at 11:30 a.m. at the Cagan Crossing Community Library located at 16729 Cagan Oaks, Clermont, Florida 34714. The meeting dates are as follows (exceptions noted below):

October 27, 2016

November 24, 2016 Thanksgiving

December 22, 2016

January 26, 2017

February 23, 2017

March 23, 2017

April 27, 2017

May 25, 2017

June 22, 2017

July 27, 2017

August 24, 2017

September 28, 2017

The meetings will be open to the public and will be conducted in accordance with the provisions of Florida Law for Community Development Districts. Any meeting may be continued with no additional notice to a date, time and place to be specified on the record at a meeting. A copy of the agenda for the meetings listed above may be obtained from Development Planning and Financing Group [DPFG], 1060 Maitland Center Commons, Suite 340 Maitland Florida 32751 at (321) 263-0132, one week prior to the meeting.

There may be occasions when one or more supervisors will participate by telephone or other remote device.

In accordance with the provisions of the Americans with Disabilities Act, any person requiring special accommodations at this meeting because of a disability or physical impairment should contact DPFG at (813) 374-9105. If you are hearing or speech impaired, please contact the Florida Relay Service at (800) 955-8770 for aid in contacting the District Office at least forty-eight (48) hours prior to the date of the hearing and meeting.

Each person who decides to appeal any action taken at the meetings is advised that the person will need a record of proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which such appeal is to be based.

DPFG, District Management



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F: (949) 388-9272

Sacramento, CA

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Sacramento, CA 95841
P: (916) 480-0305
F: (916) 480-0499

Las Vegas, NV

3277 E. Warm Springs Road,
Suite 100
Las Vegas, NV 89120
P: (702) 478-9277
F: (702) 629-5497

Boise, ID

950 West Bannock, 11th Floor
Boise, ID 83702
P: (208) 319-3576
F: (208) 439-7339

Phoenix, AZ

3302 East Indian School Road
Phoenix, AZ 85018
P: (602) 381-3226
F: (602) 381-1203

Austin, TX

8140 Exchange Drive
Austin, TX 78754
P: (512) 732-0295
F: (512) 732-0297

Orlando, FL

1060 Maitland Center Commons,
Suite 340
Maitland, FL 32751
P: (321) 263-0132
F: (321) 263-0136

Tampa, FL

15310 Amberly Drive, Suite 175
Tampa, FL 33647
P: (813) 374-9104
F: (813) 374-9106

Research Triangle, NC

1340 Environ Way, Suite 328
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P: (919) 321-0232
F: (919) 869-2508

Charleston, SC

4000 S. Faber Place Drive, Suite 300
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P: (843) 277-0021
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