

**WILDBLUE  
COMMUNITY DEVELOPMENT  
DISTRICT**

**June 4, 2020**

**BOARD OF SUPERVISORS  
VIRTUAL CONTINUED  
PUBLIC HEARING AND  
PUBLIC MEETING AGENDA**

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

May 28, 2020

Board of Supervisors  
WildBlue Community Development District

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

Dear Board Members:

The Board of Supervisors of the WildBlue Community Development District will hold a Virtual Continued Public Hearing and Public Meeting on June 4, 2020 at 10:00 a.m., by visiting <https://us02web.zoom.us/j/84855856945> or by dialing **1-929-205-6099**, followed by meeting ID **848 5585 6945**. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments
3. Acceptance of Resignation of Supervisor David Caldwell, Seat 1, term expires November, 2022
4. Discussion/Consideration: Appointment of Candidate to Fill Unexpired Term of Seat 1
  - A. Administration of Oath of Office to Newly Appointed Supervisor (*the following to be provided in a separate package*)
    - I. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees
    - II. Membership, Obligations and Responsibilities
    - III. Financial Disclosure Forms
      - Form 1: Statement of Financial Interests
      - Form 1X: Amendment to Form 1, Statement of Financial Interests
      - Form 1F: Final Statement of Financial Interests
    - IV. Form 8B – Memorandum of Voting Conflict
  - B. Consideration of Resolution 2020-04, Electing the Officers of the District, and Providing for an Effective Date

5. Continued Public Hearing to Hear Public Comments and Objections to the Adoption of the Amended and Restated Rules of Procedure, Pursuant to Sections 190.11(5), 190.011 (15) and 190.035, Florida Statutes [2019]
  - A. Affidavits of Publication
    - Notice of Rule Development
    - Notice of Rule Making
  - B. Consideration of Resolution 2020-03, Adopting Amended and Restated Rules of Procedure; Providing a Severability Clause; and Providing an Effective Date
6. Consideration of Resolution 2020-05, Approving a Proposed Budget for Fiscal Year 2020/2021 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date
7. Consideration of Resolution 2020-06, Designating a Date, Time and Location for Landowners' Meeting and Election; Providing for Publication, Providing for Severability and an Effective Date [Seats 3, 4 & 5]
8. Consideration of Resolution 2020-07, Adopting an Internal Controls Policy Consistent with Section 218.33, Florida Statutes; Providing an Effective Date
9. Consideration of License Agreement for Installation of Improvements
10. Update: Form of Agreement for Certain Maintenance Services of Improvements with POA
11. Acceptance of Unaudited Financial Statements as of April 30, 2020
12. Consideration of November 7, 2019 Public Hearing and Regular Meeting Minutes
13. Staff Reports
  - A. District Counsel: *Hopping, Green & Sams, P.A.*
  - B. District Engineer: *Barraco and Associates, Inc.*
  - C. District Manager: *Wrathell, Hunt and Associates, LLC*
    - NEXT MEETING DATE: July 2, 2020 at 10:00 a.m.

○ QUORUM CHECK

	<input type="checkbox"/> YES	<input type="checkbox"/> No	<input type="checkbox"/> PHONE
Christopher Hasty	<input type="checkbox"/> YES	<input type="checkbox"/> No	<input type="checkbox"/> PHONE
Barry Ernst	<input type="checkbox"/> YES	<input type="checkbox"/> No	<input type="checkbox"/> PHONE
Chris Johnson	<input type="checkbox"/> YES	<input type="checkbox"/> No	<input type="checkbox"/> PHONE
Russell Smith	<input type="checkbox"/> YES	<input type="checkbox"/> No	<input type="checkbox"/> PHONE

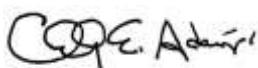
14. Board Members' Comments/Requests
15. Public Comments
16. Adjournment

“Further, please be advised that the Florida Governor’s Office has declared a state of emergency due to the Coronavirus (COVID-19). As reported by the Center for Disease Control and World Health Organization, COVID-19 can spread from person-to-person through small droplets from the nose or mouth, including when an individual coughs or sneezes. These droplets may land on objects and surfaces. Other people may contract COVID-19 by touching these objects or surfaces, then touching their eyes, nose or mouth. Therefore, merely cleaning facilities, while extremely important and vital in this crisis, may not be enough to stop the spread of this virus. Those with weakened immune systems may want to avoid the District’s meeting in order to avoid a potential exposure to the virus.”

“That said, the District wants to encourage public participation in a safe and efficient manner. Toward that end, anyone wishing to listen and participate in the meeting can visit <https://us02web.zoom.us/j/84855856945> or call **1-929-205-6099**, followed by **MEETING NUMBER 848 5585 6945**. Additionally, participants are encouraged to submit questions and comments to the District’s manager at [adams@whhassociates.com](mailto:adams@whhassociates.com).”

Should you have any questions, please do not hesitate to contact me directly at 239-464-7114.

Sincerely,



Chesley E. Adams, Jr.  
District Manager

**OPTIONS FOR MEETING PARTICIPATION**

<https://us02web.zoom.us/j/84855856945>

**OR**

**CALL IN NUMBER: 1-929-205-6099  
MEETING ID: 848 5585 6945**

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**3**

**David Caldwell**  
**5182 Sand Dollar Lane**  
**Naples, Florida 34103**

December 20, 2019

Board of Supervisors

WildBlue Community Development District

Re: Resignation

Dear Board of Supervisors:

I hereby resign my seat on the Board of Supervisors of the WildBlue CDD and any office I hold, effective December 20, 2019.

Sincerely,



David Caldwell

CC: Russell Smith

Craig Wrathell

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**4B**

## RESOLUTION 2020-04

### **A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WILDBLUE COMMUNITY DEVELOPMENT DISTRICT ELECTING THE OFFICERS OF THE DISTRICT, AND PROVIDING FOR AN EFFECTIVE DATE**

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

**WHEREAS**, pursuant to Chapter 190, *Florida Statutes*, the Board of Supervisors (“**Board**”), shall organize by electing one of its members as Chair and by electing a Secretary, and such other officers as the Board may deem necessary.

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

**1. DISTRICT OFFICERS.** The District officers are as follows:

\_\_\_\_\_ is appointed Chair

\_\_\_\_\_ is appointed Vice Chair

Chuck Adams \_\_\_\_\_ is appointed Secretary

\_\_\_\_\_ is appointed Assistant Secretary

\_\_\_\_\_ is appointed Assistant Secretary

\_\_\_\_\_ is appointed Assistant Secretary

Craig Wrathell \_\_\_\_\_ is appointed Assistant Secretary

Craig Wrathell \_\_\_\_\_ is appointed Treasurer

Jeff Pinder \_\_\_\_\_ is appointed Assistant Treasurer

**2. CONFLICTS.** All Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

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

**PASSED AND ADOPTED** this 4<sup>th</sup> day of June, 2020.

Attest:

**WILDBLUE COMMUNITY DEVELOPMENT  
DISTRICT**

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Secretary/Assistant Secretary

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Chair/Vice Chair, Board of Supervisors

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**5A**

**The News-Press**  
**media group**  
 news-press.com A GANNETT COMPANY

**NOTICE OF RULE DEVELOPMENT  
 BY THE WILDBLUE COMMUNITY  
 DEVELOPMENT DISTRICT**

Attn:  
**WILDBLUE CDD**  
**2300 GLADES RD STE 410W**  
**BOCA RATON, FL 33431**

Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Assistant of the News-Press, a daily newspaper published at Fort Myers in Lee County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

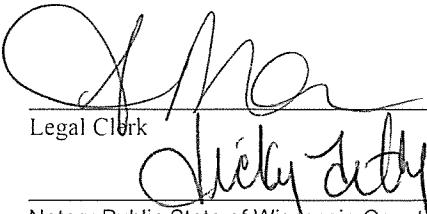
**Legal Notices**

In the Twentieth Judicial Circuit Court was published in said newspaper in the issues of:

10/08/19

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida, and that the said newspaper has heretofore been continuously published in said Lee County, Florida each day and has been entered as periodicals matter at the post office in Fort Myers, in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

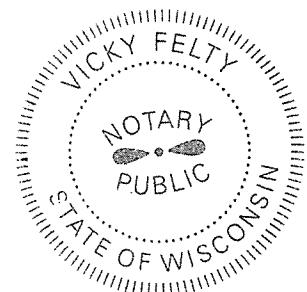
Sworn to and Subscribed before me this 8th of October 2019.

  
 Legal Clerk  
 Vicki Felty

Notary Public State of Wisconsin County of Brown

My commission expires

9/19/21



Craig Wrathell, District Manager

WildBlue Community Development

District

AD# 3828377 Oct. 8, 2019

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

Craig Wrathell, District Manager

WildBlue Community Development

District

AD# 3828377 Oct. 8, 2019

**The News-Press**  
**media group**  
 news-press.com A GANNETT COMPANY

Attn:  
**WILDBLUE CDD**  
**2300 GLADES RD STE 410W**  
**BOCA RATON, FL 33431**

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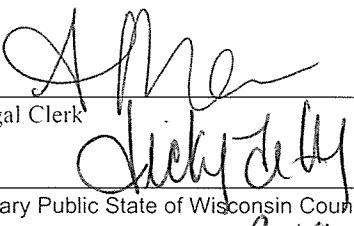
Legal Notices

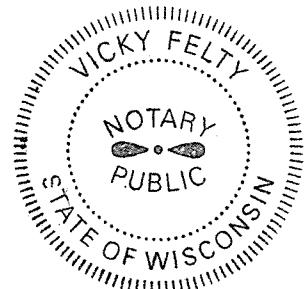
In the Twentieth Judicial Circuit Court was published in said newspaper in the issues of:

10/09/19

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida, and that the said newspaper has heretofore been continuously published in said Lee County, Florida each day and has been entered as periodicals matter at the post office in Fort Myers, in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 9th of October 2019.

  
 Legal Clerk  
 Notary Public State of Wisconsin County of Brown  
 9-19-21  
 My commission expires



**NOTICE OF RULEMAKING REGARDING  
THE AMENDED AND RESTATED RULES  
OF PROCEDURE OF THE WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT**

A public hearing will be conducted by the Board of Supervisors of the WildBlue Community Development District ("District") on November 7, 2019 at 10:00 a.m., at the offices of Barraco and Associates, 2271 McGregor Boulevard, Suite 100, Fort Myers, Florida 33901.

In accord with Chapters 120 and 190, Florida Statutes, the District hereby gives the public notice of its intent to adopt its proposed Amended and Restated Rules of Procedure. The purpose and effect of the proposed Amended and Restated Rules of Procedure is to provide for efficient and effective District operations and to ensure compliance with recent changes to Florida law. Prior notice of rule development was published in the News-Press on October 8, 2019.

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

Specific legal authority for the adoption of the proposed amended and Restated Rules of Procedure includes Sections 190.011(5), 190.011(15) and 190.035, Florida Statutes (2019). The specific laws implemented in the Amended and Restated Rules of Procedure include, but are not limited to, Sections 112.08, 112.3143, 112.31446, 112.3145, 119.07, 119.0701, 189.053, 189.069(2)(a)16, 190.006, 190.007, 190.008, 190.011(3), 190.011(5), 190.011(15), 190.033, 190.035, 218.33, 218.391, 255.05, 255.0518, 255.0525, 255.20, 286.0105, 286.011, 286.0113, 286.0114, 287.017, 287.055 and 287.084, Florida Statutes (2019).

A copy of the proposed Amended and Restated Rules of Procedure may be obtained by contacting the District Manager's Office at 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431 or by calling 561-571-0010.

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

This public hearing may be continued to a date, time, and place to be specified on the record at the hearing without additional notice. If anyone chooses to appeal any decision of the Board with respect to any matter considered at a public hearing, such person will need a record of the proceedings and should accordingly ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which such appeal is to be based. At the hearing, staff or Supervisors may participate in the public hearing by speaker telephone.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the District Manager's Office at least forty-eight (48) hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8771 or 1-800-955-8770 for aid in contacting the District Office.

WildBlue Community  
Development District  
Craig Wrathell, District Manager  
AD# 3828398 Oct. 9, 2019

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**5B**

**RESOLUTION 2020-03**

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

**WHEREAS**, WildBlue Community Development District ("District") is a local unit of special purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within Lee 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 District has previously adopted Rules of Procedure to govern the administration of the District; and

**WHEREAS**, to provide for efficient and effective District operations and to maintain compliance with recent changes to Florida law, the Board of Supervisors finds that it is in the best interests of the District to adopt by resolution the Amended and Restated 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 WILDBLUE COMMUNITY DEVELOPMENT  
DISTRICT:**

**SECTION 1.** The attached Amended and Restated Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Amended and Restated Rules of Procedure replace all prior versions of the Rules of Procedure and 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 4<sup>th</sup> day of June, 2020.

**ATTEST:**

**WILDBLUE COMMUNITY DEVELOPMENT DISTRICT**

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Secretary/Assistant Secretary

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Chair/Vice Chair, Board of Supervisors

**Exhibit A:** Amended and Restated Rules of Procedure

**EXHIBIT A: AMENDED AND RESTATED RULES OF PROCEDURE**

**AMENDED AND RESTATED  
RULES OF PROCEDURE  
WILDBLUE COMMUNITY DEVELOPMENT DISTRICT**

**EFFECTIVE AS OF \_\_\_\_\_, 20\_\_\_\_**

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**Rule 1.0      General.**

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

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

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

**Rule 1.1      Board of Supervisors; Officers and Voting.**

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

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

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

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

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

voting, such Board member shall not participate in the discussion on the item subject to the vote.

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

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

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

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

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

- (1) **District Offices.** Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:
- (a) Agenda packages for prior 24 months and next meeting;
  - (b) Official minutes of meetings, including adopted resolutions of the Board;
  - (c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;
  - (d) Adopted engineer's reports;
  - (e) Adopted assessment methodologies/reports;
  - (f) Adopted disclosure of public financing;
  - (g) Limited Offering Memorandum for each financing undertaken by the District;
  - (h) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;
  - (i) District policies and rules;
  - (j) Fiscal year end audits; and
  - (k) Adopted budget for the current fiscal year.

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

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

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

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

past unpaid duplication charges, special service charges, or other required payments or credits.

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

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

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

**Rule 1.3      Public Meetings, Hearings, and Workshops.**

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

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

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

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

- (4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the

Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.

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

- (10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however, at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.
- (11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Unless such procedure is waived by the Board, approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.
- (12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:
- (a) The Board identifies on the record at the original meeting a reasonable need for a continuance;
  - (b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and
  - (c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.
- (13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorney must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the

conclusion of the session, the public meeting is reopened, and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

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

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

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

**Rule 1.4      Internal Controls to Prevent Fraud, Waste and Abuse**

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

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

**Law Implemented:** § 218.33(3), Fla. Stat.

**Rule 2.0      Rulemaking Proceedings.**

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

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

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

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

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

- (v) Make or receive offers of settlement, stipulation, and adjustment.
  - (f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.
- (12) Variances and Waivers. A “variance” means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A “waiver” means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:
- (a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.
  - (b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District’s Rule. Each petition shall specify:
    - (i) The rule from which a variance or waiver is requested;
    - (ii) The type of action requested;
    - (iii) The specific facts that would justify a waiver or variance for the petitioner; and
    - (iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.
  - (c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner’s written request, to process the petition.
  - (d) The Board shall grant or deny a petition for variance or waiver and shall announce such disposition at a publicly held meeting of the Board, within ninety (90) days after receipt of the original petition, the last item of

timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

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

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

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

**Rule 3.0      Competitive Purchase.**

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

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

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

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

functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

- (p) “Responsive and Responsible Bidder” means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. “Responsive and Responsible Vendor” means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:
- (i) The ability and adequacy of the professional personnel employed by the entity/individual;
  - (ii) The past performance of the entity/individual for the District and in other professional employment;
  - (iii) The willingness of the entity/individual to meet time and budget requirements;
  - (iv) The geographic location of the entity’s/individual’s headquarters or office in relation to the project;
  - (v) The recent, current, and projected workloads of the entity/individual;
  - (vi) The volume of work previously awarded to the entity/individual;
  - (vii) Whether the cost components of the bid or proposal are appropriately balanced; and
  - (viii) Whether the entity/individual is a certified minority business enterprise.
- (q) “Responsive Bid,” “Responsive Proposal,” “Responsive Reply,” and “Responsive Response” all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails

to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

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

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

**Rule 3.1      Procedure Under the Consultants' Competitive Negotiations Act.**

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

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

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

entitled to recover from the District any costs of qualification package preparation or submittal.

(4) **Competitive Selection.**

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

"Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

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

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

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

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

## **Rule 3.2      Procedure Regarding Auditor Selection.**

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

- (1) Definitions.
  - (a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.
  - (b) "Committee" means the auditor selection committee appointed by the Board as described in section (2) of this Rule.
- (2) Establishment of Auditor Selection Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an auditor selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee shall include at least three individuals, at least one of which must also be a member of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board. The Chairperson of the Committee must be a member of the Board. An employee, a chief executive officer, or a chief financial officer of the District may not serve as a member of the Committee; provided however such individual may serve the Committee in an advisory capacity.
- (3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.
  - (a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District:
    - (i) Hold all required applicable state professional licenses in good standing;

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

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

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

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

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

in advance of the meeting to evaluate all qualified proposals and may, as part of the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.

(7) Board Selection of Auditor.

- (a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.
- (b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm or document in its public records the reason for not selecting the highest-ranked qualified firm.
- (c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.
- (d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.

- (8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:
- (a) A provision specifying the services to be provided and fees or other compensation for such services;
  - (b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;
  - (c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than June 30 of the fiscal year that follows the fiscal year for which the audit is being conducted;
  - (d) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed. The maximum contract period including renewals shall be five (5) years. A renewal may be done without the use of the auditor selection procedures provided in this Rule but must be in writing.
  - (e) Provisions required by law that require the auditor to comply with public records laws.
- (9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

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

**Law Implemented:** §§ 119.0701, 218.33, 218.391, Fla. Stat.

**Rule 3.3 Purchase of Insurance.**

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

Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

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

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

**Law Implemented:** § 112.08, Fla. Stat.

## **Rule 3.4      Pre-qualification**

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

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

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

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

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

(3) Suspension, Revocation, or Denial of Qualification

- (a) The District, for good cause, may deny, suspend, or revoke a prequalified vendor's pre-qualified status. A suspension, revocation, or denial for good cause shall prohibit the vendor from bidding on any District construction contract for which qualification is required, shall constitute a determination of non-responsibility to bid on any other District construction or maintenance contract, and shall prohibit the vendor from acting as a material supplier or subcontractor on any District contract or project during the period of suspension, revocation, or denial. Good cause shall include the following:
  - i. One of the circumstances specified under Section 337.16(2), Fla. Stat., has occurred.
  - ii. Affiliated contractors submitted more than one proposal for the same work. In this event the pre-qualified status of all of the affiliated bidders will be revoked, suspended, or denied. All bids of affiliated bidders will be rejected.
  - iii. The vendor made or submitted false, deceptive, or fraudulent statements, certifications, or materials in any claim for payment or any information required by any District contract.
  - iv. The vendor or its affiliate defaulted on any contract or a contract surety assumed control of financial responsibility for any contract of the vendor.
  - v. The vendor's qualification to bid is suspended, revoked, or denied by any other public or semi-public entity, or the vendor has been the subject of a civil enforcement proceeding or settlement involving a public or semi-public entity.
  - vi. The vendor failed to comply with contract or warranty requirements or failed to follow District direction in the performance of a contract.
  - vii. The vendor failed to timely furnish all contract documents required by the contract specifications, special provisions, or by any state or federal statutes or regulations. If the vendor fails to furnish any of the subject contract documents by the expiration of the period of suspension, revocation, or denial set forth above, the vendor's pre-

qualified status shall remain suspended, revoked, or denied until the documents are furnished.

- viii. The vendor failed to notify the District within 10 days of the vendor, or any of its affiliates, being declared in default or otherwise not completing work on a contract or being suspended from qualification to bid or denied qualification to bid by any other public or semi-public agency.
- ix. The vendor did not pay its subcontractors or suppliers in a timely manner or in compliance with contract documents.
- x. The vendor has demonstrated instances of poor or unsatisfactory performance, deficient management resulting in project delay, poor quality workmanship, a history of payment of liquidated damages, untimely completion of projects, uncooperative attitude, contract litigation, inflated claims or defaults.
- xi. An affiliate of the vendor has previously been determined by the District to be non-responsible, and the specified period of suspension, revocation, denial, or non-responsibility remains in effect.
- xii. The vendor or affiliate(s) has been convicted of a contract crime.
  - 1. The term “contract crime” means any violation of state or federal antitrust laws with respect to a public contract or any violation of any state or federal law involving fraud, bribery, collusion, conspiracy, or material misrepresentation with respect to a public contract.
  - 2. The term “convicted” or “conviction” means a finding of guilt or a conviction of a contract crime, with or without an adjudication of guilt, in any federal or state trial court of record as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

- (b) A denial, suspension, or revocation shall prohibit the vendor from being a subcontractor on District work during the period of denial, suspension, or revocation, except when a prime contractor’s bid has used prices of a subcontractor who becomes disqualified after the bid, but before the request for authorization to sublet is presented.
- (c) The District shall inform the vendor in writing of its intent to deny, suspend, or revoke its pre-qualified status and inform the vendor of its right to a hearing, the procedure which must be followed, and the applicable time limits. If a hearing is requested within 10 days after the receipt of the notice of intent, the hearing shall be held within 30 days after receipt by the District of the

request for the hearing. The decision shall be issued within 15 days after the hearing.

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

Examples of factors affecting the seriousness of a deficiency are:

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

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

**Law Implemented:** §§ 190.033, 255.0525, 255.20, Fla. Stat.

**Rule 3.5      Construction Contracts, Not Design-Build.**

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

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

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

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

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

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

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

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

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

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

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

**Rule 3.6      Construction Contracts, Design-Build.**

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

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

(2) Procedure.

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

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

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

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

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

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

negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the second most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the third most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.

9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.
  10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package and shall provide the Board with a report of the same.
- (3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
- (4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.
- (5) Exceptions. This Rule is inapplicable when:
- (a) The project is undertaken as repair or maintenance of an existing public facility;

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

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

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

**Rule 3.7      Payment and Performance Bonds.**

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

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

**Law Implemented:** § 255.05, Fla. Stat.

**Rule 3.8      Goods, Supplies, and Materials.**

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

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

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

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

- (f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.
- (g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5)

percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest 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) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may proceed with the procurement of goods, supplies, and materials, in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the goods, supplies, and materials without further competitive selection processes.

- (3) **Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6.** There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.
- (4) **Exemption.** Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.
- (5) **Renewal.** Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a maximum period of five (5) years.
- (6) **Emergency Purchases.** The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

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

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

**Rule 3.9      Maintenance Services.**

- (1) **Scope.** All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.
- (2) **Procedure.** When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:
  - (a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.
  - (b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.
  - (c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.
  - (d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.
  - (e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:
    - (i) Hold all required applicable state professional licenses in good standing;
    - (ii) Hold all required applicable federal licenses in good standing, if any;
    - (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

- (iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

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

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

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

**Specific Authority:** §§ 190.011(5), 190.011(15), 190.033, Fla. Stat.

**Law Implemented:** §§ 119.0701, 190.033, 287.017, Fla. Stat.

**Rule 3.10      Contractual Services.**

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

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

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

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

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

(1)    Filing.

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

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

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

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

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

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

**Law Implemented:** § 190.033, Fla. Stat.

**Rule 4.0        Effective Date.**

These Rules shall be effective \_\_\_\_\_, 20\_\_\_, 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.

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT**

**6**

## RESOLUTION 2020-05

### **A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WILDBLUE COMMUNITY DEVELOPMENT DISTRICT APPROVING A PROPOSED BUDGET FOR FISCAL YEAR 2020/2021 AND SETTING A PUBLIC HEARING THEREON PURSUANT TO FLORIDA LAW; ADDRESSING TRANSMITTAL, POSTING AND PUBLICATION REQUIREMENTS; ADDRESSING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the District Manager has heretofore prepared and submitted to the Board of Supervisors (“**Board**”) of the WildBlue Community Development District (“**District**”) prior to June 15, 2020, a proposed budget (“**Proposed Budget**”) for the fiscal year beginning October 1, 2020 and ending September 30, 2021 (“**Fiscal Year 2020/2021**”); and

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

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

1. **PROPOSED BUDGET APPROVED.** The Proposed Budget prepared by the District Manager for Fiscal Year 2020/2021 attached hereto as **Exhibit A** is hereby approved as the basis for conducting a public hearing to adopt said Proposed Budget.
  
2. **SETTING A PUBLIC HEARING.** A public hearing on said approved Proposed Budget is hereby declared and set as follows:

DATE: \_\_\_\_\_, 2020

HOUR: 10:00 a.m.

The hearing may be conducted remotely, pursuant to communication media technology and/or by telephone pursuant to Executive Orders 20-52, 20-69, and 20-112 issued by Governor DeSantis on March 9, 2020, March 20, 2020, and April 29, 2020, as such orders may be extended, respectively, and pursuant to Section 120.54(5)(b)2., *Florida Statutes*. In the event that conditions allow the meeting to be held in person, it will be held at the following location:

LOCATION: Barraco & Associates  
2271 McGregor Boulevard, Suite 100  
Fort Myers, Florida 33901

3. **TRANSMITTAL OF PROPOSED BUDGET TO LOCAL GENERAL PURPOSE GOVERNMENT.** The District Manager is hereby directed to submit a copy of the Proposed Budget to Lee County at least 60 days prior to the hearing set above.

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

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

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

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

**PASSED AND ADOPTED THIS 4<sup>th</sup> DAY OF JUNE, 2020.**

ATTEST:

\_\_\_\_\_  
Secretary/Assistant Secretary

**WILDBLUE COMMUNITY  
DEVELOPMENT DISTRICT**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**Exhibit A:** Fiscal Year 2020/2021 Proposed Budget

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
PROPOSED BUDGET  
FISCAL YEAR 2021  
UPDATED MAY 28, 2020**

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
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**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
GENERAL FUND BUDGET**

	Fiscal Year 2020				
	Adopted Budget FY 2020	Actual through 3/31/2020	Projected through 9/30/2020	Total Actual & Projected	Proposed Budget FY 2021
<b>REVENUES</b>					
Assessment levy: on-roll - gross	\$ 211,239				\$ 350,920
Allowable discounts (4%)	(8,450)				(14,037)
Assessment levy: on-roll - net	202,789	\$202,842	\$ -	\$ 202,842	336,883
Assessment levy: off-roll	161,376	141,811	19,565	161,376	268,580
Landowner contribution	-	6,740	-	6,740	-
Interlocal agreement -Vista Blue	13,000	-	13,000	13,000	13,000
<b>Total revenues</b>	<b>377,165</b>	<b>351,393</b>	<b>32,565</b>	<b>383,958</b>	<b>618,463</b>
<b>EXPENDITURES</b>					
<b>Professional &amp; administrative</b>					
Management/accounting/recording	48,000	24,000	24,000	48,000	48,000
Legal	20,000	12,149	7,851	20,000	20,000
Engineering	4,000	6,157	1,500	7,657	4,000
Audit**	5,500	-	3,500	3,500	5,500
Arbitrage rebate calculation**	750	-	-	-	750
Dissemination agent*	1,000	500	250	750	1,000
Trustee*	6,500	-	-	-	6,500
Telephone	200	100	100	200	200
Postage	500	36	100	136	500
Printing & binding	500	250	250	500	500
Legal advertising	1,200	1,218	500	1,718	1,200
Annual special district fee	175	175	-	175	175
Insurance	5,500	5,125	-	5,125	5,500
Contingencies/bank charges	500	55	445	500	500
Website					
Hosting	705	-	705	705	705
ADA compliance	200	199	-	199	210
<b>Total professional &amp; administrative</b>	<b>95,230</b>	<b>49,964</b>	<b>39,201</b>	<b>89,165</b>	<b>95,240</b>
<b>Field operations</b>					
Field management	10,000	-	10,000	10,000	10,000
Aquatic maintenance	65,000	16,870	30,000	46,870	65,000
Conservation area maintenance	77,000	-	65,000	65,000	313,000
Conservation area monitoring & reporting	43,000	715	30,000	30,715	48,300
Water level and quality reporting	26,000	-	13,000	13,000	26,000
Littoral plant replacements	10,000	-	5,000	5,000	10,000
Conservation area fence review/repairs	10,000	-	2,500	2,500	10,000
Aeration operating supplies	5,000	-	2,500	2,500	5,000
Contingencies	10,000	-	5,000	5,000	10,000
Shoreline/seawall repair and replacements	25,000	-	5,000	5,000	25,000
<b>Total field operations</b>	<b>281,000</b>	<b>17,585</b>	<b>158,000</b>	<b>175,585</b>	<b>522,300</b>

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
GENERAL FUND BUDGET**

	Fiscal Year 2020				Proposed Budget FY 2021
	Adopted Budget FY 2020	Actual through 3/31/2020	Projected through 9/30/2020	Total Actual & Projected	
Other fees and charges					
Property appraiser	374	374	-	374	374
Tax collector	561	542	19	561	561
Total other fees and charges	<u>935</u>	<u>916</u>	<u>19</u>	<u>935</u>	<u>935</u>
Total expenditures	<u>377,165</u>	<u>68,465</u>	<u>197,220</u>	<u>265,685</u>	<u>618,475</u>
Excess/(deficiency) of revenues over/(under) expenditures	-	282,928	(164,655)	118,273	(12)
Fund balance - beginning (unaudited)	-	(6,715)	276,213	(6,715)	111,558
Fund balance - ending (projected)	<u>\$ -</u>	<u>\$ 276,213</u>	<u>\$ 111,558</u>	<u>\$ 111,558</u>	<u>\$ 111,546</u>

\* These items will be realized when bonds are issued

\*\* These items will be realized the year after the issuance of bonds.

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

**EXPENDITURES**

**Professional & administrative**

Management/accounting/recording	\$ 48,000
<b>Wrathell, Hunt and Associates, LLC</b> (WHA), specializes in managing community development districts by combining the knowledge, skills and experience of a team of professionals to ensure compliance with all of the District's governmental requirements. WHA develops financing programs, administers the issuance of tax exempt bond financings, operates and maintains the assets of the community.	
Legal	20,000
General counsel and legal representation, which includes issues relating to public finance, public bidding, rulemaking, open meetings, public records, real property dedications, conveyances and contracts.	
Engineering	4,000
The District's Engineer will provide construction and consulting services, to assist the District in crafting sustainable solutions to address the long term interests of the community while recognizing the needs of government, the environment and maintenance of the District's facilities.	
Audit	5,500
Statutorily required for the District to undertake an independent examination of its books, records and accounting procedures.	
Arbitrage rebate calculation**	750
To ensure the District's compliance with all tax regulations, annual computations are necessary to calculate the arbitrage rebate liability.	
Dissemination agent*	1,000
The District must annually disseminate financial information in order to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934. Wrathell, Hunt & Associates serves as dissemination agent.	
Trustee	6,500
Annual fee for the service provided by trustee, paying agent and registrar.	
Telephone	200
Telephone and fax machine.	
Postage	500
Mailing of agenda packages, overnight deliveries, correspondence, etc.	
Printing & binding	500
Letterhead, envelopes, copies, agenda packages, etc.	
Legal advertising	1,200
The District advertises for monthly meetings, special meetings, public hearings, public bids, etc.	
<b>EXPENDITURES (continued)</b>	
Annual special district fee	175
Annual fee paid to the Florida Department of Economic Opportunity.	
Insurance	5,500
The District will obtain public officials and general liability insurance.	
Contingencies/bank charges	500
Bank charges, automated AP routing and other miscellaneous expenses incurred during the year.	
Website	
Hosting	705
ADA compliance	210
Total professional and admin	<hr/> <hr/> 95,240 3

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

**Field operations**

Field management	10,000
Aquatic maintenance	65,000
Covers the costs of contracting with a licensed and qualified aquatic maintenance company to maintain the District's recreational and stormwater ponds, free of non beneficial vegetation and algae.	
Conservation area maintenance	313,000
Covers the costs of contracting with a qualified and licensed maintenance company to maintain the Districts Conservation Areas, free of State of Florida identified Category I and II exotics and invasives in accordance with the requirements of the Conservation Area Easement/Permit and by utilizing semi annual maintenance events. For fiscal year 2021, the CDD anticipates accepting full annual responsibility for areas AB, CD, EF and GH from	
Conservation area monitoring and reporting	48,300
Covers the costs of contracting with a qualified and licensed company to periodically monitor and report the progress of the conservation area maintenance and replanting efforts, in accordance with the requirements of the Conservation Area Easement/Permit. For fiscal year 2021, the CDD anticipates accepting full annual responsibility for all areas AB, CD, EF and GH from the Developer.	
Water level and quality reporting	26,000
Covers the cost of providing periodic water level and quality monitoring and reporting as required by the conditions of the Lake Management Plan. It is anticipated that the District will enter into a interlocal agreement with Vista Blue CDD to share these costs on a 50/50 basis.	
Littoral plant replacements	10,000
Covers the costs of periodic replacements to insure compliance with the surface water management permit.	
Conservation area fence review/repairs	10,000
Covers the costs of annual review and repairs of the conservation areas fence lines.	
Aeration operating supplies	5,000
Covers the costs of electricity and repairs and maintenance for an aeration system to be installed in the lake H1 which will be developed during fiscal year 2020 and will be required to have aeration pursuant to Lee County Deep Lake Management requirements.	
Contingencies	10,000
Shoreline/seawall repair and replacements	25,000
Intended to cover the costs of eventual shoreline erosion and seawall repairs.	
Total field operations	<u>522,300</u>

**Other fees and charges**

Property appraiser	374
Tax collector	561
Total other fees and charges	<u>935</u>
Total expenditures	<u>\$618,475</u>

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
DEBT SERVICE FUND BUDGET - SERIES 2019  
FISCAL YEAR 2021**

	Fiscal Year 2020					Proposed Budget FY 2021
	Adopted Budget FY 2020	Actual through 3/31/2020	Projected through 9/30/2020	Total Revenue & Expenditures		
<b>REVENUES</b>						
Special assessment - on-roll	\$ 844,344					\$ 844,344
Allowable discounts (4%)	(33,774)					(33,774)
Assessment levy: net	810,570	\$ 808,691	\$ 1,879	\$ 810,570		810,570
Special assessment: off-roll	582,050	468,955	113,095	582,050		582,050
Interest	-	7,775	-	7,775		-
Total revenues	<u>1,392,620</u>	<u>1,285,421</u>	<u>114,974</u>	<u>1,400,395</u>		<u>1,392,620</u>
<b>EXPENDITURES</b>						
<b>Debt service</b>						
Principal	415,000	-	415,000	415,000		430,000
Interest	986,497	497,325	489,172	986,497		963,819
Total debt service	<u>1,401,497</u>	<u>497,325</u>	<u>904,172</u>	<u>1,401,497</u>		<u>1,393,819</u>
Total expenditures	<u>1,401,497</u>	<u>497,325</u>	<u>904,172</u>	<u>1,401,497</u>		<u>1,393,819</u>
Excess/(deficiency) of revenues over/(under) expenditures	(8,877)	788,096	(789,198)	(1,102)		(1,199)
<b>OTHER FINANCING SOURCES/(USES)</b>						
Transfer out	-	(3,896)	-	(3,896)		-
Total other financing sources/(uses)	<u>-</u>	<u>(3,896)</u>	<u>-</u>	<u>(3,896)</u>		<u>-</u>
Fund balance:						
Net increase/(decrease) in fund balance	(8,877)	784,200	(789,198)	(4,998)		(1,199)
Beginning fund balance (unaudited)	1,192,794	1,195,927	1,980,127	1,195,927		1,190,929
Ending fund balance (projected)	<u>\$ 1,183,917</u>	<u>\$ 1,980,127</u>	<u>\$ 1,190,929</u>	<u>\$ 1,190,929</u>		<u>1,189,730</u>
Use of fund balance:						
Debt service reserve account balance (required)						(695,469)
Principal and Interest expense - December 15, 2021						(474,384)
Projected fund balance surplus/(deficit) as of September 30, 2021						<u>\$ 19,877</u>

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**  
**SERIES 2019 AMORTIZATION SCHEDULE**

	Principal	Coupon Rate	Interest	Debt Service	Bond Balance
12/15/20			481,909.38	481,909.38	23,055,000.00
06/15/21	430,000.00	3.500%	481,909.38	911,909.38	22,625,000.00
12/15/21			474,384.38	474,384.38	22,625,000.00
06/15/22	445,000.00	3.500%	474,384.38	919,384.38	22,180,000.00
12/15/22			466,596.88	466,596.88	22,180,000.00
06/15/23	465,000.00	3.500%	466,596.88	931,596.88	21,715,000.00
12/15/23			458,459.38	458,459.38	21,715,000.00
06/15/24	480,000.00	3.500%	458,459.38	938,459.38	21,235,000.00
12/15/24			450,059.38	450,059.38	21,235,000.00
06/15/25	500,000.00	3.750%	450,059.38	950,059.38	20,735,000.00
12/15/25			440,684.38	440,684.38	20,735,000.00
06/15/26	515,000.00	3.750%	440,684.38	955,684.38	20,220,000.00
12/15/26			431,028.13	431,028.13	20,220,000.00
06/15/27	535,000.00	3.750%	431,028.13	966,028.13	19,685,000.00
12/15/27			420,996.88	420,996.88	19,685,000.00
06/15/28	555,000.00	3.750%	420,996.88	975,996.88	19,130,000.00
12/15/28			410,590.63	410,590.63	19,130,000.00
06/15/29	580,000.00	3.750%	410,590.63	990,590.63	18,550,000.00
12/15/29			399,715.63	399,715.63	18,550,000.00
06/15/30	600,000.00	3.750%	399,715.63	999,715.63	17,950,000.00
12/15/30			388,465.63	388,465.63	17,950,000.00
06/15/31	625,000.00	4.250%	388,465.63	1,013,465.63	17,325,000.00
12/15/31			375,184.38	375,184.38	17,325,000.00
06/15/32	650,000.00	4.250%	375,184.38	1,025,184.38	16,675,000.00
12/15/32			361,371.88	361,371.88	16,675,000.00
06/15/33	680,000.00	4.250%	361,371.88	1,041,371.88	15,995,000.00
12/15/33			346,921.88	346,921.88	15,995,000.00
06/15/34	710,000.00	4.250%	346,921.88	1,056,921.88	15,285,000.00
12/15/34			331,834.38	331,834.38	15,285,000.00
06/15/35	740,000.00	4.250%	331,834.38	1,071,834.38	14,545,000.00
12/15/35			316,109.38	316,109.38	14,545,000.00
06/15/36	775,000.00	4.250%	316,109.38	1,091,109.38	13,770,000.00
12/15/36			299,640.63	299,640.63	13,770,000.00
06/15/37	805,000.00	4.250%	299,640.63	1,104,640.63	12,965,000.00
12/15/37			282,534.38	282,534.38	12,965,000.00
06/15/38	840,000.00	4.250%	282,534.38	1,122,534.38	12,125,000.00
12/15/38			264,684.38	264,684.38	12,125,000.00
06/15/39	880,000.00	4.250%	264,684.38	1,144,684.38	11,245,000.00
12/15/39			245,984.38	245,984.38	11,245,000.00
06/15/40	915,000.00	4.375%	245,984.38	1,160,984.38	10,330,000.00
12/15/40			225,968.75	225,968.75	10,330,000.00
06/15/41	960,000.00	4.375%	225,968.75	1,185,968.75	9,370,000.00
12/15/41			204,968.75	204,968.75	9,370,000.00
06/15/42	1,000,000.00	4.375%	204,968.75	1,204,968.75	8,370,000.00
12/15/42			183,093.75	183,093.75	8,370,000.00
06/15/43	1,045,000.00	4.375%	183,093.75	1,228,093.75	7,325,000.00

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
SERIES 2019 AMORTIZATION SCHEDULE**

	<b>Principal</b>	<b>Coupon Rate</b>	<b>Interest</b>	<b>Debt Service</b>	<b>Bond Balance</b>
12/15/43			160,234.38	160,234.38	7,325,000.00
06/15/44	1,090,000.00	4.375%	160,234.38	1,250,234.38	6,235,000.00
12/15/44			136,390.63	136,390.63	6,235,000.00
06/15/45	1,140,000.00	4.375%	136,390.63	1,276,390.63	5,095,000.00
12/15/45			111,453.13	111,453.13	5,095,000.00
06/15/46	1,190,000.00	4.375%	111,453.13	1,301,453.13	3,905,000.00
12/15/46			85,421.88	85,421.88	3,905,000.00
06/15/47	1,245,000.00	4.375%	85,421.88	1,330,421.88	2,660,000.00
12/15/47			58,187.50	58,187.50	2,660,000.00
06/15/48	1,300,000.00	4.375%	58,187.50	1,358,187.50	1,360,000.00
12/15/48			29,750.00	29,750.00	1,360,000.00
06/15/49	1,360,000.00	4.375%	29,750.00	1,389,750.00	-
<b>Total</b>	<b>23,055,000.00</b>		<b>17,685,250.24</b>	<b>40,740,250.24</b>	

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
ASSESSMENT COMPARISON  
PROJECTED FISCAL YEAR 2020 ASSESSMENTS**

**On-Roll Assessments**

<b>Product</b>	<b>Units</b>	<b>FY 2021 O&amp;M Assessment per Unit</b>	<b>FY 2021 DS Assessment per Unit</b>	<b>FY 2021 Total Assessment per Unit</b>	<b>FY 2020 Total Assessment per Unit</b>
SF 52'	31	\$ 938.29	\$ 1,513.08	\$ 2,451.37	2,077.89
SF 66'	44	938.29	1,920.43	2,858.72	2,485.24
SF 72'	27	938.29	2,095.01	3,033.30	2,659.82
SF 75'	180	938.29	2,182.30	3,120.59	2,747.11
SF 85'	46	938.29	2,473.26	3,411.55	3,038.07
SF 102'	34	938.29	2,967.89	3,906.18	3,532.70
SF 140'	12	938.29	4,073.55	5,011.84	4,638.36
<b>Total</b>	<b>374</b>				

**Off-Roll Assessments**

<b>Product</b>	<b>Units</b>	<b>FY 2021 O&amp;M Assessment per Unit</b>	<b>FY 2021 DS Assessment per Unit</b>	<b>FY 2021 Total Assessment per Unit</b>	<b>FY 2020 Total Assessment per Unit</b>
SF 52'	69	\$ 898.26	\$ 1,452.56	\$ 2,350.82	1,992.28
SF 66'	51	898.26	1,843.61	2,741.87	2,383.33
SF 72'	34	898.26	2,011.21	2,909.47	2,550.93
SF 75'	89	898.26	2,095.01	2,993.27	2,634.73
SF 85'	56	898.26	2,374.33	3,272.59	2,914.05
SF 102'	-	898.26	2,849.17	3,747.43	3,388.89
SF 140'	-	898.26	3,910.61	4,808.87	4,450.33
<b>Total</b>	<b>299</b>				

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**7**

**RESOLUTION 2020-06**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF WILDBLUE COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A DATE, TIME, AND LOCATION FOR LANDOWNERS' MEETING AND ELECTION; PROVIDING FOR PUBLICATION, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE**

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

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

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

**WHEREAS**, the effective date of Lee County Ordinance No. 17-17 creating the District (the "Ordinance") is November 9, 2017; and

**WHEREAS**, the District is statutorily required to hold a meeting of the landowners of the District for the purpose of electing supervisors for the District on November 3, 2020, which shall be noticed pursuant to Section 190.006(2)(a), Florida Statutes.

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

**SECTION 1.** The Board is currently made up of the following individuals.

<u>Seat Number</u>	<u>Supervisor</u>	<u>Term Expiration Date</u>
1	Vacant	November 2022
2	Christopher Hasty	November 2022
3	Barry Ernst	November 2020
4	Chris Johnson	November 2020
5	Russell Smith	November 2020

This year, Seats 3, 4 and 5, currently held by Barry Ernst, Chris Johnson, and Russell Smith, respectively, are subject to election by landowners in November 2020. The two candidates receiving the highest number of votes shall be elected for a term of four (4) years. The candidate receiving the next highest number of votes shall be elected for a term of two (2) years. The term of office for each successful candidate shall commence upon election.

**SECTION 2.** In accordance with section 190.006(2), *Florida Statutes*, the meeting of the landowners to elect three (3) supervisors of the District, shall be held on the 3rd day of November, 2020, at 10:00 a.m., at Barraco and Associates, 2271 McGregor Boulevard, Suite 100 Fort Myers, Florida 33901.

**SECTION 3.** The District's Secretary is hereby directed to publish notice of this landowners meeting and election in accordance with the requirements of Section 190.006(2)(a), *Florida Statutes*.

**SECTION 4.** Pursuant to Section 190.006(2)(b), *Florida Statutes*, the landowners' meeting and election is hereby announced by the Board at its June 4, 2020 meeting. A sample notice of landowners' meeting and election, proxy, ballot form and instructions were presented in at such meeting and are attached hereto as **Exhibit A**. Such documents are available for review and copying during normal business hours at the office of the District Manager, Wrathell, Hunt & Associates, LLC, located at 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431, or by emailing adamsc@whhassociates.com or calling (561) 571-0010.

**SECTION 5.** The invalidity or unenforceability of any one or more provisions of this Resolution shall not affect the validity or enforceability of the remaining portions of this Resolution or any part thereof.

**SECTION 6.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** this 4<sup>th</sup> day of June, 2020.

**ATTEST:**

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Secretary/Assistant Secretary

**WILDBLUE COMMUNITY DEVELOPMENT DISTRICT**

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Chair/Vice Chair, Board of Supervisors

**Exhibit A**

**NOTICE OF LANDOWNERS' MEETING AND ELECTION AND MEETING OF THE BOARD OF  
SUPERVISORS OF THE WILDBLUE COMMUNITY DEVELOPMENT DISTRICT**

Notice is hereby given to the public and all landowners within WildBlue Community Development District (the "District"), in Lee County, Florida, advising that a meeting of landowners will be held for the purpose of electing three (3) persons to the District Board of Supervisors. Immediately following the landowners' meeting, there will be convened a meeting of the Board of Supervisors for the purpose of considering certain matters of the Board to include election of certain District officers, and other such business which may properly come before the Board.

DATE: November 3, 2020

TIME: 10:00 A.M.

PLACE: Barraco & Associates  
2271 McGregor Boulevard, Suite 100  
Fort Myers, Florida 33901

Each landowner may vote in person or by written proxy. Proxy forms may be obtained upon request at the office of the District Manager, 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431, or by emailing adamsc@whhassociates.com or calling (561) 571-0010. At said meeting, each landowner or his or her proxy shall be entitled to nominate persons for the position of Supervisor and cast one vote per acre of land, or fractional portion thereof, owned by him or her and located within the District for each person to be elected to the position of Supervisor. A fraction of an acre shall be treated as one acre, entitling the landowner to one vote with respect thereto. Platted lots shall be counted individually and rounded up to the nearest whole acre. The acreage of platted lots shall not be aggregated for determining the number of voting units held by a landowner or a landowner's proxy. At the landowners' meeting, the landowners shall select a person to serve as the meeting chair and who shall conduct the meeting.

The landowners' meeting and the Board of Supervisors meeting are open to the public and will be conducted in accordance with the provisions of Florida law. One or both of the meetings may be continued to a date, time, and place to be specified on the record at such meeting. A copy of the agenda for these meetings may be obtained from 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431. There may be an occasion where one or more supervisors will participate by telephone.

Any person requiring special accommodations to participate in these meetings is asked to contact the District Manager's Office at (877) 276-0889, at least 48 hours before the hearing. If you are hearing or speech impaired, please contact the Florida Relay Service at (800) 955-8770 for aid in contacting the District Office.

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

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District Manager

Run Date(s): \_\_\_\_\_ & \_\_\_\_\_

PUBLISH: ONCE A WEEK FOR 2 CONSECUTIVE WEEKS, THE LAST DAY OF PUBLICATION TO BE NOT FEWER THAN 14 DAYS OR MORE THAN 28 DAYS BEFORE THE DATE OF ELECTION, IN A NEWSPAPER WHICH IS IN GENERAL CIRCULATION IN THE AREA OF THE DISTRICT

**INSTRUCTIONS RELATING TO LANDOWNERS' MEETING OF  
WILDBLUE COMMUNITY DEVELOPMENT DISTRICT  
FOR THE ELECTION OF SUPERVISORS**

DATE OF LANDOWNERS' MEETING: **November 3, 2020**

TIME: **10:00 A.M.**

LOCATION: **Barraco & Associates  
2271 McGregor Boulevard, Suite 100  
Fort Myers, Florida 33901**

Pursuant to Chapter 190, Florida Statutes, and after a Community Development District ("District") has been established and the landowners have held their initial election, there shall be a subsequent landowners' meeting for the purpose of electing members of the Board of Supervisors ("Board") every two years until the District qualifies to have its board members elected by the qualified electors of the District. The following instructions on how all landowners may participate in the election are intended to comply with Section 190.006(2)(b), Florida Statutes.

A landowner may vote in person at the landowners' meeting, or the landowner may nominate a proxy holder to vote at the meeting in place of the landowner. Whether in person or by proxy, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the District, for each position on the Board that is open for election for the upcoming term. A fraction of an acre shall be treated as one (1) acre, entitling the landowner to one vote with respect thereto. Please note that a particular parcel of real property is entitled to only one vote for each eligible acre of land or fraction thereof; therefore, two or more people who own real property in common, that is one acre or less, are together entitled to only one vote for that real property.

At the landowners' meeting, the first step is to elect a chair for the meeting, who may be any person present at the meeting. The landowners shall also elect a secretary for the meeting who may be any person present at the meeting. The secretary shall be responsible for the minutes of the meeting. The chair shall conduct the nominations and the voting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions. Candidates must be nominated and then shall be elected by a vote of the landowners. Nominees may be elected only to a position on the Board that is open for election for the upcoming term.

This year, three (3) seats on the Board will be up for election by landowners. The two candidates receiving the highest number of votes shall be elected for a term of four (4) years. The candidate receiving the next highest number of votes shall be elected for a term of two (2) years. The term of office for each successful candidate shall commence upon election.

A proxy is available upon request. To be valid, each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy does not need to be notarized.

**LANDOWNER PROXY**

**WILDBLUE COMMUNITY DEVELOPMENT DISTRICT  
LEE COUNTY, FLORIDA  
LANDOWNERS' MEETING – NOVEMBER 3, 2020**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, the fee simple owner of the lands described herein, hereby constitutes and appoints \_\_\_\_\_ ("Proxy Holder") for and on behalf of the undersigned, to vote as proxy at the meeting of the landowners of the WildBlue Community Development District to be held at 10:00 a.m., on November 3, 2020 at Barraco and Associates, 2271 McGregor Boulevard, Suite 100 Fort Myers, Florida 33901, and at any adjournments thereof, according to the number of acres of unplatte land and/or platted lots owned by the undersigned landowner that the undersigned would be entitled to vote if then personally present, upon any question, proposition, or resolution or any other matter or thing that may be considered at said meeting including, but not limited to, the election of members of the Board of Supervisors. Said Proxy Holder may vote in accordance with his or her discretion on all matters not known or determined at the time of solicitation of this proxy, which may legally be considered at said meeting.

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

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Printed Name of Legal Owner

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Signature of Legal Owner

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Date

**Parcel Description**

**Acreage**

**Authorized Votes**

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[Insert above the street address of each parcel, the legal description of each parcel, or the tax identification number of each parcel. If more space is needed, identification of parcels owned may be incorporated by reference to an attachment hereto.]

**Total Number of Authorized Votes:** \_\_\_\_\_

NOTES: Pursuant to Section 190.006(2)(b), Florida Statutes (2019), a fraction of an acre is treated as one (1) acre entitling the landowner to one vote with respect thereto. For purposes of determining voting interests, platted lots shall be counted individually and rounded up to the nearest whole acre. Moreover, two (2) or more persons who own real property in common that is one acre or less are together entitled to only one vote for that real property.

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

**OFFICIAL BALLOT**

**WILDBLUE COMMUNITY DEVELOPMENT DISTRICT  
LEE COUNTY, FLORIDA  
LANDOWNERS' MEETING – NOVEMBER 3, 2020**

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**For Election (3 Supervisors):** The two (2) candidates receiving the highest number of votes will each receive a four (4)-year term, and the one (1) candidate receiving the next highest number of votes will receive a two (2)-year term, with the term of office for the successful candidates commencing upon election.

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

<b><u>Description</u></b>	<b><u>Acreage</u></b>
_____	_____
_____	_____

[Insert above the street address of each parcel, the legal description of each parcel, or the tax identification number of each parcel.] [If more space is needed, identification of parcels owned may be incorporated by reference to an attachment hereto.]

or

**Attach Proxy.**

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

<b>SEAT</b>	<b>NAME OF CANDIDATE</b>	<b>NUMBER OF VOTES</b>
3.	_____	_____
4.	_____	_____
5.	_____	_____

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**8**

**RESOLUTION 2020-07**

**A RESOLUTION BY THE BOARD OF SUPERVISORS OF THE WILDBLUE COMMUNITY DEVELOPMENT DISTRICT ADOPTING AN INTERNAL CONTROLS POLICY CONSISTENT WITH SECTION 218.33, FLORIDA STATUTES; PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS**, consistent with Section 218.33, *Florida Statutes*, the District is statutorily required to establish and maintain internal controls designed to prevent and detect fraud, waste, and abuse as defined in Section 11.45(1), *Florida Statutes*; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets; and

**WHEREAS**, to demonstrate compliance with Section 218.33, *Florida Statutes*, the District desires to adopt by resolution the Internal Controls Policy attached hereto as **Exhibit A**.

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

**SECTION 1.** The attached Internal Controls Policy attached hereto as **Exhibit A** is hereby adopted pursuant to this Resolution.

**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 4<sup>h</sup> DAY OF JUNE, 2020.**

**ATTEST:**

**WILDBLUE COMMUNITY  
DEVELOPMENT DISTRICT**

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Secretary/Assistant Secretary

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Chair/Vice Chair, Board of Supervisors

**EXHIBIT "A"**

**WILDBLUE COMMUNITY DEVELOPMENT DISTRICT  
INTERNAL CONTROLS POLICY**

**1. Purpose.**

- 1.1. The purpose of this internal controls policy is to establish and maintain internal controls for the WildBlue Community Development District.
- 1.2. Consistent with Section 218.33(3), *Florida Statutes*, the internal controls adopted herein are designed to:
  - 1.2.1. Prevent and detect Fraud, Waste, and Abuse (as hereinafter defined).
  - 1.2.2. Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.
  - 1.2.3. Support economical and efficient operations.
  - 1.2.4. Ensure reliability of financial records and reports.
  - 1.2.5. Safeguard Assets (as hereinafter defined).

**2. Definitions.**

- 2.1. “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.
- 2.2. “Assets” means District assets such as cash or other financial resources, supplies, inventories, equipment and other fixed assets, real property, intellectual property, or data.
- 2.3. “Auditor” means the independent auditor (and its employees) retained by the District to perform the annual audit required by state law.
- 2.4. “Board” means the Board of Supervisors for the District.
- 2.5. “District Management” means (i) the independent contractor (and its employees) retained by the District to provide professional district management services to the District and (ii) any other independent contractor (and its employees) separately retained by the District to provide amenity management services, provided said services include a responsibility to safeguard and protect Assets.

- 2.6. "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, intentional misstatements or intentional omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.
- 2.7. "Internal Controls" means systems and procedures designed to prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.
- 2.8. "Risk" means anything that could negatively impact the District's ability to meet its goals and objectives. The term includes strategic, financial, regulatory, reputational, and operational risks.
- 2.9. "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

### **3. Control Environment.**

#### **3.1. Ethical and Honest Behavior.**

- 3.1.1. District Management is responsible for maintaining a work environment that promotes ethical and honest behavior on the part of all employees, contractors, vendors and others.
- 3.1.2. Managers at all levels must behave ethically and communicate to employees and others that they are expected to behave ethically.
- 3.1.3. Managers must demonstrate through words and actions that unethical behavior will not be tolerated.

### **4. Risk Assessment.**

- 4.1. **Risk Assessment.** District Management is responsible for assessing Risk to the District. District Management's Risk assessments shall include, but not be limited to:
  - 4.1.1. Identifying potential hazards.
  - 4.1.2. Evaluating the likelihood and extent of harm.
  - 4.1.3. Identifying cost-justified precautions and implementing those precautions.

## **5. Control Activities.**

5.1. Minimum Internal Controls. The District hereby establishes the following minimum Internal Controls to prevent and detect Fraud, Waste, and Abuse:

5.1.1. Preventive controls designed to forestall errors or irregularities and thereby avoid the cost of corrections. Preventive control activities shall include, but not be limited to, the following:

- 5.1.1.1. Identifying and segregating incompatible duties and/or implementing mitigating controls.
- 5.1.1.2. Performing accounting functions in accordance with Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) standards.
- 5.1.1.3. Requiring proper authorizations to access and/or modify accounting software.
- 5.1.1.4. Implementing computerized accounting techniques (e.g. to help identify coding errors, avoid duplicate invoices, etc.).
- 5.1.1.5. Maintaining a schedule of the District's material fixed Assets.
- 5.1.1.6. Maintaining physical control over the District's material and vulnerable Assets (e.g. lock and key, computer passwords, network firewalls, etc.).
- 5.1.1.7. Retaining and restricting access to sensitive documents.
- 5.1.1.8. Performing regular electronic data backups.

5.1.2. Detective controls designed to measure the effectiveness of preventive controls and to detect errors or irregularities when they occur. Detective control activities shall include, but not be limited to, the following:

- 5.1.2.1. Preparing financial reports in accordance with Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) standards.
- 5.1.2.2. Reviewing financial statements and investigating any material variances between budgeted expenses and actual expenses.
- 5.1.2.3. Establishing and implementing periodic reconciliations of bank, trust, and petty cash accounts.

- 5.1.2.4. Establishing an internal protocol for reporting and investigating known or suspected acts of Fraud, Waste, or Abuse.
  - 5.1.2.5. Engaging in periodic physical inventory counts and comparisons with inventory records.
  - 5.1.2.6. Monitoring all ACH (electronic) transactions and the sequencing of checks.
- 5.2. **Implementation.** District Management shall implement the minimum Internal Controls described herein. District Management may also implement additional Internal Controls that it deems advisable or appropriate for the District. The specific ways District Management implements these minimum Internal Controls shall be consistent with Generally Accepted Accounting Principles (GAAP) and otherwise conform to Governmental Accounting Standards Board (GASB) and American Institute of Certified Public Accountants (AICPA) standards and norms.

## **6. Information and Communication.**

- 6.1. **Information and Communication.** District Management shall communicate to its employees (needing to know) information relevant to the Internal Controls, including but not limited to any changes to the Internal Controls and/or changes to laws, rules, contracts, grant agreements, and best practices.
- 6.2. **Training.** District Management shall regularly train its employees (needing the training) in connection with the Internal Controls described herein and promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

## **7. Monitoring Activities.**

- 7.1. **Internal Reviews.** District Management shall internally review the District's Internal Controls at least once per year. In connection with this internal review, District Management shall:
  - 7.1.1.1. Review its operational processes.
  - 7.1.1.2. Consider the potential risk of Fraud, Waste, or Abuse inherent in each process.
  - 7.1.1.3. Identify the controls included in the process, or controls that could be included, that would result in a reduction in the inherent risk.
  - 7.1.1.4. Assess whether there are Internal Controls that need to be improved or added to the process under consideration.

- 7.1.1.5. Implement new controls or improve existing controls that are determined to be the most efficient and effective for decreasing the risk of Fraud, Waste or Abuse.
  - 7.1.1.6. Train its employees on implemented new controls or improvements to existing controls.
- 7.2. **External Audits and Other Reviews.** Audits and other reviews may be performed on various components of the District's Internal Controls by the Auditor consistent with Government Auditing Standards (GAS). Audits may identify material deficiencies in the Internal Controls and make recommendations to improve them. District Management shall communicate and cooperate with the Board and the Auditor regarding the potential implementation of Auditor recommendations.

**Specific Authority:** §§ 190.011(5), 218.33(3), *Florida Statutes*

**Effective date:** June 4, 2020

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**9**

After recording, please return to:

District Manager  
WildBlue Community Development District  
c/o Wrathell, Hunt & Associates, LLC  
2300 Glades Road, Suite 410W  
Boca Raton, Florida 33431

Parcel ID #\_\_\_\_\_

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## **LICENSE AGREEMENT FOR INSTALLATION OF IMPROVEMENTS**

**THIS LICENSE AGREEMENT FOR IMPROVEMENTS INSTALLATION** (“**Agreement**”) is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and among \_\_\_\_\_ (“**Owner**”) residing at \_\_\_\_\_, and the **WILDBLUE COMMUNITY DEVELOPMENT DISTRICT** (“**CDD**”), a local unit of special-purpose government created pursuant to Chapter 190, *Florida Statutes*, with a mailing address of 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431.

### **RECITALS**

**WHEREAS**, Owner is the owner of Lot \_\_\_\_\_, as per the plat (“**Plat**”) of \_\_\_\_\_ recorded in Plat Book \_\_\_\_, Page \_\_\_\_ et seq., of the Official Records of Lee County, Florida (“**Property**”); and

**WHEREAS**, Owner desires to install a dock and related appurtenances (“**Improvements**”) within the lake easement (“**Lake Easement**”) located on said Property and as shown on the Plat (“**License Area**”); and

**WHEREAS**, due to the CDD’s legal interests in the Lake Easement, among other reasons, Owner requires the CDD’s consent before constructing improvements within any portion of the surface water management system, including the Lake Easement; and

**WHEREAS**, the CDD has agreed to consent to the installation of the Improvements within the License Area, subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is understood and agreed as follows:

**1. RECITALS.** The recitals set forth above are acknowledged as true and correct and are incorporated herein by reference.

**2. LICENSE FOR IMPROVEMENTS INSTALLATION AND MAINTENANCE; LIMITATION.** Subject to the terms of this Agreement, the CDD hereby grants Owner the right, privilege, and permission to install and maintain removable Improvements on the License Area.

**3. OWNER RESPONSIBILITIES.** The Owner has the following responsibilities:

**a.** The Owner shall be fully responsible for the installation and maintenance of the Improvements.

**b.** The Owner shall be responsible for ensuring that the installation and maintenance of the Improvements are conducted in compliance with all applicable laws (including but not limited to building codes, set back requirements, applicable environmental regulations, etc.).

**c.** CDD, by entering into this Agreement, does not represent that CDD has authority to provide all necessary approvals for the installation of the Improvements. Instead, the Owner shall be responsible for obtaining any and all applicable permits and approvals relating to the work (including but not limited to any approvals of the [INSERT HOMEONWERS ASSOCIATION NAME] (“Association”), as well as any other necessary permits and approvals).

**d.** The Owner shall ensure that the installation and maintenance of the Improvements does not damage any property of CDD or any third party’s property, and, in the event of any such damage, the Owner shall immediately repair the damage or compensate the CDD for such repairs, at the CDD’s option.

**e.** Owner’s exercise of rights hereunder shall not interfere with CDD’s rights under the Lake Easement, or with any other applicable permits or rights. For example, if the Improvements include a dock, such dock shall be installed within the Lake Easement so as not to impede the flow of water, or shall otherwise be constructed so as not to impede the flow of water. Further, the Improvements shall be installed in such a manner as to not interfere with or damage any CDD owned assets, including but not limited to CDD lake banks, littorals, seawalls, lake floor and contour, fountains, and bubblers that may be located within the Lake Easement, or any utilities within the public utility easement, if any. It shall be Owner’s responsibility to locate and identify any such stormwater improvements and/or utilities. Further, the Owner shall pay a licensed and insured professional contractor to mark any existing improvements and/or utilities prior to installation of the Improvements.

**f.** Upon completion of the installation, the Improvements will be owned by the Owner. Owner shall be responsible for the maintenance and repair of any such Improvements, and agrees to maintain the Improvements in good and working condition.

**g.** Additionally, the Owner shall keep the License Area free from any materialmen’s or mechanic’s liens and claims or notices in respect to such liens and claims, which arise by reason of the Owner’s exercise of rights under this Agreement, and the Owner shall immediately discharge any such claim or lien.

**h.** This Agreement shall be rescinded and further penalties may apply if the Owner violates the Lake Management Plan, the Lake Maintenance Plan, and/or the WildBlue Lake North and WildBlue Lake South Boat Management Plan. [Craig – Let’s discuss this.]

**4. REMOVAL AND/OR REPLACEMENT OF IMPROVEMENTS.** The permission granted herein is given to Owner as an accommodation and is revocable at any time. Owner acknowledges the legal interest of the CDD in the Lake Easement described above and agrees never to deny such interest or to interfere in any way with CDD’s use. Owner will exercise the privilege granted herein at Owner’s own risk, and agrees that Owner will never claim and hereby waives any such claim of damages against CDD for any injuries or damages suffered on account of the exercise of such privilege, regardless of the fault or negligence of the CDD. Owner further acknowledges that, without notice, the CDD may remove all, or any portion or portions, of the Improvements installed upon the License Area at Owner’s expense, and that the CDD is not obligated to re-install the Improvements to its original location and is not responsible for any damage to the Improvements, or its supporting structure as a result of the removal.

**5. INDEMNIFICATION.** Owner agrees to indemnify, defend and hold harmless Lee County, the CDD, Southwest Florida Water Management District, the Association, and any property management company of the Association, as well as any officers, supervisors, staff, agents and representatives, and successors and assigns, of the foregoing, against all liability for damages and expenses resulting from, arising out of, or in any way connected with, this Agreement or the exercise of the privileges granted hereunder.

**6. COVENANTS RUN WITH THE LAND.** This Agreement, and all rights and obligations contained herein, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, including, but without limitation, all subsequent owners of any portions of the property described herein and all persons claiming under them. Whenever the word "Owner" is used herein, it shall be deemed to mean the current owner of the Property and its successors and assigns. Upon the sale of the Property, the Owner shall advise the subsequent owner of the terms and conditions of this Agreement.

**7. SOVEREIGN IMMUNITY.** Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the CDD beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

**8. ATTORNEY'S FEES AND COSTS.** The prevailing party in any litigation to enforce the terms of this Agreement shall be entitled to reasonable attorney's fees and costs.

**9. DESIGNATION.** The CDD hereby designates the District Manager to act as the District's representative, who shall be given authority to execute this Agreement.

**10. COUNTERPARTS.** This Agreement may be executed in any number of counterparts. Any party hereto may join into this Agreement by executing any one counterpart. All counterparts when taken together shall constitute but one and the same instrument constituting this Agreement.

[Signature pages follow]

**IN WITNESS WHEREOF**, the parties have caused these presents to be executed on the day and year first above written.

**WITNESSES:**

By: \_\_\_\_\_

Print Name \_\_\_\_\_

By: \_\_\_\_\_

Print Name \_\_\_\_\_

STATE OF FLORIDA )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ . She/He [ ] is personally known to me or [ ] produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

[signatures continue on following page]

[SIGNATURE PAGE TO LICENSE AGREEMENT FOR INSTALLATION OF IMPROVEMENTS]

**WITNESSES:**

**OWNER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Print Name \_\_\_\_\_

STATE OF FLORIDA                          )  
COUNTY OF \_\_\_\_\_                          )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_ s. She/He [ ] is personally known to me or [ ] produced \_\_\_\_\_ as  
identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

[signatures continue on following page]

[SIGNATURE PAGE TO LICENSE AGREEMENT FOR INSTALLATION OF IMPROVEMENTS]

**WITNESSES:**

**WILBLUE COMMUNITY DEVELOPMENT  
DISTRICT**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name \_\_\_\_\_

By: \_\_\_\_\_

Print Name \_\_\_\_\_

STATE OF FLORIDA                              )  
COUNTY OF \_\_\_\_\_                              )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, as \_\_\_\_\_ of the WildBlue Community Development District, on behalf of said district. She/He [ ] is personally known to me or [ ] produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

[End of signature pages]

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT**

**10**

**From:** [Craig Wrathell](#)  
**To:** [David Caldwell](#); [Jonathan Johnson](#)  
**Cc:** [Chuck Adams](#); [Cindy Cerbone](#); [Daphne Gillyard](#)  
**Subject:** RE: WildBlue Exhibit A Scope of Services for Form of Agreement for Maintenance Services with POA  
**Date:** Monday, November 4, 2019 11:53:59 AM  
**Attachments:** [DOCS-#587646-v2-License Agreement for Dock Installation - WildBlue.doc](#)  
[EXH A - Scope of Services for Form of Agreement for Maintenance Services...docx](#)  
[image001.png](#)

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Dave

Good morning. I hope you had a great weekend. As a follow-up to my email below, I've attached Jonathan's form of License Agreement for Boat Docks. Jonathan and I would be happy to have a call with you in advance of Thursday's Wild Blue CDD meeting to discuss both the License Agreement as well as the updated Scope of Services for the Maintenance Agreement between the CDD and HOA (both attached above). We will plan to place both items on Thursday's Board agenda pending any comments you may have. Otherwise, we will look forward to seeing you Thursday.

Thanks Craig

**Craig Wrathell**  
**President & Partner**  
**Wrathell, Hunt & Associates, LLC**  
**2300 Glades Road, Suite 410W**  
**Boca Raton, Florida 33431**  
**Toll-free: (877)276-0889**  
**Phone: (561)571-0010**  
**Fax: (561)571-0013**  
**[www.whassociates.com](#)**



**Wrathell, Hunt and Associates, LLC**

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**From:** Craig Wrathell  
**Sent:** Monday, October 14, 2019 3:30 PM  
**To:** David Caldwell (David.Caldwell@lennar.com); Jonathan Johnson  
**Cc:** Chuck Adams; Cindy Cerbone; Craig Wrathell; Daphne Gillyard  
**Subject:** WildBlue Exhibit A Scope of Services for Form of Agreement for Maintenance Services with POA

Dave & Jonathan

Good afternoon. As a follow-up to our October 3rd WildBlue CDD Board meeting, attached above is the updated Exhibit A Scope of Services for Form of Agreement for Maintenance Services between the WildBlue CDD and POA. My changes to Exhibit A were intended to address the comments made

at the October 3rd Board meeting. Please review and let me know if you have any suggested revisions.

As we also discussed, the next step will be for Jonathan to prepare a form of Dock License Agreement. My recollection of our discussions would be that this dock agreement would accomplish the following:

- 1) Have an enforcement provision which allows the district to pursue that property owner (through fines and/or rescinding of dock license agreement) should they violate the Lake Management Plan, Lake Maintenance Plan, and WildBlue Lake North and WildBlue Lake South Boat Management Plan.
- 2) The Dock License Agreement will be recorded in the property records and would adhere to successor property owners.
- 3) License holder accepts all liability for dock and indemnifies WildBlue CDD.
- 4) If for any reason the CDD needed to remove a portion or all of the dock for maintenance purposes (and/or life, health, safety reasons???), the CDD would have no obligation to rebuild the dock or reimburse license holder for the expense to rebuild the dock.
- 5) Obligates the dock license agreement holder to be responsible for all CDD owned assets located in and around the dock such as CDD lake bank, littorals, seawalls, lake floor and contour, and fountains & bubblers.
- 6) Allows District Manager to sign dock license agreement.

The plan is to approve the updated Maintenance Agreement with the POA and also approve the form of Dock License Agreement at the November 7th WildBlue CDD Board meeting. I'm happy to discuss.

Thanks Craig

**Craig Wrathell**  
**President & Partner**  
**Wrathell, Hunt & Associates, LLC**  
**2300 Glades Road, Suite 410W**  
**Boca Raton, Florida 33431**  
**Toll-free: (877)276-0889**  
**Phone: (561)571-0010**  
**Fax: (561)571-0013**  
**[www.whassociates.com](http://www.whassociates.com)**



**Wrathell, Hunt and Associates, LLC**

**AGREEMENT BETWEEN THE  
WILDBLUE COMMUNITY DEVELOPMENT DISTRICT  
AND \_\_\_\_\_ FOR CERTAIN MAINTENANCE  
SERVICES OF IMPROVEMENTS**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between:

**WildBlue Community Development District**, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes, located in Lee County, Florida, and with offices at 2300 Glades Road, Suite #410W, Boca Raton, Florida 33431 (hereinafter “**District**”), and

\_\_\_\_\_, a Florida not-for-profit corporation, whose address is \_\_\_\_\_ (the “**Association**”).

**RECITALS**

**WHEREAS**, the District was established the Board of County Commissioners in and for Lee County, Florida, pursuant to the Uniform Community Development District Act of 1980, Chapter 190, *Florida Statutes*, as amended, for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

**WHEREAS**, the District presently owns and/or maintains various systems, facilities and infrastructure including, but not limited to, \_\_\_\_\_ improvements; and

**WHEREAS**, the District desires to retain an independent contractor to operate, maintain and repair the \_\_\_\_\_ improvements and otherwise provide the services (“**Services**”) set forth in **Exhibit A** attached hereto, across the lands (“**Property**”) identified in **Exhibit A**; and

**WHEREAS**, the Association is a Florida not-for-profit corporation owning, operating and maintaining various improvements and facilities for the community that the District serves; and

**WHEREAS**, the residents within the community that is served by both the Association and the District benefit from the improvements and may be required to pay for the cost of the Services, regardless whether such Services are conducted by the Association or the District; and

**WHEREAS**, for ease of administration, potential cost savings to property owners and residents and the benefits of full-time, on-site operation and maintenance personnel, the District desires to contract with the Association to provide the Services; and

**WHEREAS**, the Association represents that it is qualified, either in its own right or through its officers, employees, contractors and/or affiliates, to provide the Services and desires to contract with the District to do so in accordance with the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

**SECTION 1. RECITALS.** The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Agreement.

**SECTION 2. SCOPE OF SERVICES.**

- A. ***Services.*** Association shall be responsible for providing, or causing to be provided, the Services in an efficient, lawful and satisfactory manner. All work shall be performed in a neat and professional manner reasonably acceptable to the District and shall be in accordance with industry standards.
- B. ***Inspection.*** Association shall conduct regular inspections of all Property and report any irregularities to the District Manager, or his designated representative, and shall correct any irregularities in accordance with the terms of this Agreement.
- C. ***Repair and Maintenance.*** Association shall make, or cause to be made, such routine repair work or normal maintenance to the Property as may be required for the operation or physical protection of the Property. Association shall promptly cause emergency repairs to be made when such repairs are necessary for the preservation and safety of persons and/or property, or when the repairs are required to be made to avoid the suspension of any services. Association shall immediately notify the District Manager, or a designated representative, concerning the need for emergency repairs.
- D. ***Investigation and Report of Accidents/Claims.*** Association shall promptly investigate and provide a full written report to the District Manager as to all accidents or claims for damage relating to the improvements or the Services. Such report shall at a minimum include a description of any damage or destruction of property and the estimated cost of repair. Association shall cooperate and make any and all reports required by any insurance company or the District in connection with any accident or claim. Association shall not file any claims with the District's insurance company without the prior consent of the District's Board of Supervisors.
- E. ***Adherence to District Rules, Regulations and Policies.*** Association shall ensure that Association's officers, employees, contractors and affiliates are familiar with all District policies and procedures and are informed with respect to the rules, regulations and notices as may be promulgated by the District from time to time and Association shall ensure that said persons conform therewith. Association assures the District that all third parties will be dealt with at arm's length, and that the District's interest will be best served at all times.
- F. ***Care of the District Improvements.*** Association shall use all due care to protect the property of the District, its residents and landowners from damage by Association or its officers, employees, contractors and affiliates. Association agrees to repair any damage resulting from the activities and work of the Association or its officers, employees, contractors and affiliates. The District is

- not responsible for the cost of repairs from damage resulting from the acts or omissions of the Association or its officers, employees, contractors and affiliates.
- G. ***Staffing and Billing.*** Association shall be solely responsible for the staffing, budgeting, financing, billing and collection of fees, assessments, service charges, etc., necessary to perform the Services.
  - H. ***Designation of District Representative.*** The District shall designate in writing a person to act as the District's representative with respect to the Services. The District's representative shall have complete authority to transmit instructions, receive information, interpret and define the District's policies and decisions with respect to materials, equipment, elements and systems pertinent to the Services. The District hereby designates the District Manager to act as its representative.
  - I. ***Reports.*** The Association agrees to meet with the District representative as needed to walk the property to discuss conditions, schedules, and items of concern regarding this Agreement.

**SECTION 3. COMPENSATION.** The District shall pay Association the sum of Ten Dollars (\$10.00) per year for the provision of management and maintenance services pursuant to the terms of this Agreement. The Association shall not be entitled, for any reason, to reimbursement or refund of any funds expended in the performance of its obligations under this Agreement.

**SECTION 4. TERM.** This Agreement commences on the date first written above and continues through \_\_\_\_\_, 20\_\_\_\_\_. This Agreement shall automatically renew for additional one (1) year periods unless and until terminated pursuant to its terms.

**SECTION 5. INSURANCE.** The Association shall maintain or cause to be maintained, at its own expense throughout the term of this Agreement, the following insurance:

- A. Worker's Compensation Insurance in accordance with the laws of the State of Florida.
- B. Commercial General Liability Insurance covering the Association's legal liability for bodily injuries, with limits of not less than \$1,000,000 combined single limit bodily injury and property damage liability.
- C. Employer's Liability Coverage with limits of at least \$1,000,000 (one million dollars) per accident or disease.
- D. Automobile Liability Insurance for bodily injuries in limits of not less than \$1,000,000 combined single limit bodily injury and for property damage, providing coverage for any accident arising out of or resulting from the operation, maintenance, or use by the Association of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.

The Association and the District, and their respective staff, consultants, agents and supervisors, shall be named as additional insureds on each of the above policies (except with respect to the Worker's Compensation Insurance policy). No certificate shall be acceptable to the District unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the District. Insurance coverage shall be from a reputable insurance carrier, licensed to

conduct business in the State of Florida, and such carrier shall have a Best's Insurance Reports rating of at least A-VII. If the Association fails to have secured and maintained the required insurance, the District has the right (without any obligation to do so, however) to secure such required insurance in which event, the Association shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the District's obtaining the required insurance.

In the event that the Association does not directly provide the insurance required by this section by obtaining a policy in the Association's name but instead causes another entity ("Third Party Insurer") to provide such insurance through a policy issued to the Third Party Insurer that additionally affords the coverage required herein, the Association shall require by written agreement with the Third Party Insurer that the Third Party Insurer shall comply with the terms of this section; that the District shall have third party rights to pursue all available legal remedies against the Third Party Insurer in the event the Third Party Insurer fails to provide such insurance without first complying with the notice provisions stated in this Agreement; and that the Third Party Insurer, as a contractor, shall indemnify the District pursuant to Section 6. The Association shall provide proof of insurance upon request by the District.

**SECTION 6. INDEMNIFICATION.** Association agrees to indemnify, defend and hold harmless the District and its officers, agents and employees from any and all liability, claims, actions, suits or demands by any person, corporation or other entity for injuries, death, property damage or harm of any nature, arising out of, or in connection with, the acts or omissions of the Association, or its officers, employees, and representatives, including litigation or any appellate proceedings with respect thereto. Association agrees to require by written contract any contractor and subcontractors hired in connection with this Agreement to indemnify, defend and hold harmless the District and its officers, agents and employees from any and all liability, claims, actions, suits or demands by any person, corporation or other entity for injuries, death, property damage or harm of any nature, arising out of, or in connection with, the acts or omissions of such contractors and subcontractors, including litigation or any appellate proceedings with respect thereto. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney fees, and paralegal fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

**SECTION 7. LIMITATIONS ON GOVERNMENTAL LIABILITY.** Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

**SECTION 8. COMPLIANCE WITH GOVERNMENTAL REGULATION.** The Association shall keep, observe, and perform all requirements of applicable local, State, and Federal laws, rules, regulations, or ordinances relating to the Property, including but not limited to any applicable permits or other regulatory approvals.

**SECTION 9. LIENS AND CLAIMS.** The Association shall promptly and properly pay for all labor employed, materials purchased, and equipment hired by it to perform under this Agreement. The Association shall keep the District's property free from any materialmen's or mechanic's liens and claims or notices in respect to such liens and claims, which arise by reason of the Association's performance under this Agreement, and the Association shall immediately discharge any such claim or lien.

**SECTION 10. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE.** A default by either Party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief, and/or specific performance. Nothing contained in this Agreement shall limit or impair the District's right to protect its rights from interference by a third party to this Agreement.

**SECTION 11. CUSTOM AND USAGE.** It is hereby agreed, any law, custom, or usage to the contrary notwithstanding, that each party shall have the right at all times to enforce the conditions and agreements contained in this Agreement in strict accordance with the terms of this Agreement, notwithstanding any conduct or custom on the part of the party seeking to enforce the conditions and agreements in refraining from so doing; and further, that the failure of a party at any time or times to strictly enforce its rights under this Agreement shall not be construed as having created a custom in any way or manner contrary to the specific conditions and agreements of this Agreement, or as having in any way modified or waived the same.

**SECTION 12. SUCCESSORS.** This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the parties to this Agreement, except as expressly limited in this Agreement.

**SECTION 13. TERMINATION.**

- A. The District shall have the right to terminate this Agreement effective immediately at any time due to Association's failure to perform in accordance with the terms of this Agreement. In the event of termination by the District for cause, the Association shall be required to provide the District with sufficient funds to provide for the services contemplated by this Agreement through the end of the District's fiscal year which ends on September 30.
- B. The District shall have the right to terminate this Agreement upon thirty (30) days written notice without a showing of cause. In the event of termination without cause, the Association shall have no further financial obligation to the District.
- C. The Association shall have the right to terminate this Agreement upon sixty (60) days written notice without a showing of cause. In the event of termination by the Association, the Association shall be required to provide the District with sufficient funds to provide for the services contemplated by this Agreement through the end of the District's fiscal year which ends on September 30.
- D. Regardless of which party terminates this agreement and for what purpose, the Association and the District shall cooperate in effectuating a transfer of the obligations under this Agreement including the assignment of maintenance contracts and the transfer of all documentation associated with the provision of Services hereunder including warranty documentation.

**SECTION 14. PERMITS AND LICENSES.** All permits and licenses required by any governmental agency directly for the District shall be obtained and paid for by the District. All other permits or licenses necessary for the Association to perform under this Agreement shall be obtained and paid for by the Association.

**SECTION 15. ASSIGNMENT.** Neither party may assign this Agreement without the prior written approval of the other. Any purported assignment without such written consent shall be void.

**SECTION 16. INDEPENDENT CONTRACTOR STATUS.** In all matters relating to this Agreement, the Association shall be acting as an independent contractor. Neither the Association nor employees of the Association, if there are any, are employees of the District under the meaning or application of any Federal or State Unemployment or Insurance Laws or Old Age Laws or otherwise. The Association agrees to assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of the Association, if there are any, in the performance of this Agreement. The Association shall not have any authority to assume or create any obligation, express or implied, on behalf of the District and the Association shall have no authority to represent the District as an agent, employee, or in any other capacity.

**SECTION 17. HEADINGS FOR CONVENIENCE ONLY.** The descriptive headings in this Agreement are for convenience only and shall neither control nor affect the meaning or construction of any of the provisions of this Agreement.

**SECTION 18. ENFORCEMENT OF AGREEMENT.** In the event that either the District or the Association is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings.

**SECTION 19. AGREEMENT.** This instrument shall constitute the final and complete expression of this Agreement between the District and Association relating to the subject matter of this Agreement.

**SECTION 20. AMENDMENTS.** Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the District and the Association.

**SECTION 21. AUTHORIZATION.** The execution of this Agreement has been duly authorized by the appropriate body or official of the District and the Association, both the District and the Association have complied with all the requirements of law, and both the District and the Association have full power and authority to comply with the terms and provisions of this instrument.

**SECTION 22. NOTICES.** All notices, requests, consents and other communications under this Agreement ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, certified/registered mail, or overnight delivery service, to the parties, as follows:

**A. If to the District:** WildBlue Community Development District  
2300 Glades Road, Suite #410W

Boca Raton, Florida 33431  
Attn: District Manager

**With a copy to:**

Hopping Green & Sams, P.A.  
119 South Monroe Street, Suite 300  
Tallahassee, Florida 32301  
Attn: District Counsel

**B. If to the Association:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for the Association may deliver Notice on behalf of the District and the Association, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

**SECTION 23. THIRD PARTY BENEFICIARIES.** This Agreement is solely for the benefit of the District and the Association and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the District and the Association any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the District and the Association and their respective representatives, successors and assigns.

**SECTION 24. APPLICABLE LAW AND VENUE.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue for any dispute shall be in a court of appropriate jurisdiction in Lee County, Florida.

**SECTION 25. PUBLIC RECORDS.** The Association understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records and shall be treated as such in accordance with Florida law. As such, the parties shall comply with any applicable laws regarding public records, including but not limited to the provisions of Section 119.0701, Florida Statutes, the terms of which are incorporated herein. Among other requirements, Association must:

- a. Keep and maintain public records required by the District to perform the service.
- b. Upon request from the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if the Association does not transfer the records to the District.
- d. Upon completion of this Agreement, transfer, at no cost, to the District all public records in possession of the Association or keep and maintain public records required by the District to perform the service. If the Association transfers all public records to the District upon completion of this Agreement, the Association shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Association keeps and maintains public records upon completion of the Agreement, the Association shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

IF THE ASSOCIATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ASSOCIATION'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, CRAIG WRATHELL, C/O WRATHELL, HUNT AND ASSOCIATES, LLC, 2300 GLADES ROAD, SUITE 410W, BOCA RATON, FLORIDA 33431, (561) 571-0010, WRATHELLC@WHHASSOCIATES.COM.

**SECTION 26. SEVERABILITY.** The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

**SECTION 27. ARM'S LENGTH TRANSACTION.** This Agreement has been negotiated fully between the District and the Association as an arm's length transaction. The District and the Association 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 any doubtful language will not be interpreted or construed against any party.

**SECTION 28. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute, but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

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

Attest:

**WILDBLUE COMMUNITY DEVELOPMENT DISTRICT**

---

Secretary/Assistant Secretary

---

Chair/Vice Chair, Board of Supervisors

---

(Signature of Witness)

By: \_\_\_\_\_

Its: \_\_\_\_\_

---

(Print Name of Witness)

**EXHIBIT A:** Scope of Services

**EXHIBIT A**  
**SCOPE OF SERVICES**

Page 1 of 2  
**EXHIBIT A**  
**SCOPE OF SERVICES**

**STORMWATER MANAGEMENT AND LANDSCAPE MAINTENANCE:** The WildBlue Development has a required Lake Management Plan as well as a Lake Maintenance Plan as to be periodically updated and approved by the Lee County. The Lake Management Plan and Lake Maintenance Plan include general measures and Best Management Practices (BMPs) to be employed so that exotic vegetation is controlled, fertilizer and pesticide applications are properly applied, lake banks are maintained, desirable littoral plants flourish, and water quality is enhanced within the stormwater management lakes to meet the Land Development Code in perpetuity. The Lake Management Plan also includes provisions to address Wellfield Protection, as outlined in Section 27.b. of Zoning Resolution Z-15-021. A copy of the final plan will be recorded as part of the Master HOA Declaration. Declaration documents establish responsibility for the maintenance of all features of the surface water management system including all lake areas and prohibit individual irrigation and applications of fertilizers and pesticides. The HOA documents will also include restrictions for activities and use within Wellfield Protection Zones. HOA documents will prohibit use of private, individual irrigation wells and private, individual homeowner intake pipes in lakes for irrigation use in the community. Educational materials will be provided by HOA to all residents describing the benefits of littoral vegetation, lake maintenance, water quality, and a summary of fertilizer and pesticide best management practices. For all stormwater management lakes constructed deeper than 12 feet, the Deep Stormwater Management Lake Plan requires destratification systems to be installed to aid in the prevention of low dissolved oxygen levels and promote the breakdown of the stratified water layers. Systems may include fountains, bubblers, or other measures to prevent stratification.

Accordingly, the WildBlue Master Property Owners Association, Inc. (POA) will be responsible for the mowing and fertilization of private lots, enforcement of fertilizers and pesticides on private lots, and providing educational materials to all residents as outlined in said Lake Management & Lake Maintenance Plans. For operational efficiency and to ensure strict adherence to the Lake Management and Lake Maintenance Plans, the POA will budget, collect the revenues, and operate and maintain the CDD owned landscape areas which are generally located leading into the main front guard gate off Corkscrew Road, mowing along CDD-owned lake banks, and landscape maintenance along the berms abutting preserves. The WildBlue CDD will maintain the recreational lakes (WildBlue Lake North & WildBlue Lake South), stormwater management system, and the preserve/conservation areas. CDD maintenance responsibilities for the recreational lakes, stormwater management system and preservation/conservation areas will include aquatic weed control, maintain littoral plantings, drainage functions, installation and maintenance of fountains & bubblers, trash removal from ponds/lakes, and water quality monitoring. Ownership map contained herein as Exhibit B, Lake Management Plan Exhibit C, and Lake Maintenance Plan as Exhibit D. Exhibits C & D are provided for illustrative purposes as the Lake Management Plan and Lake Maintenance Plan will be periodically updated and newer versions will be approved by Lee County. The most recent County approved version of the Lake Management Plan and Lake Maintenance Plan should be adhered to for the purposes of this agreement.

**Deleted:**

**BOAT MANAGEMENT PLAN & DOCKS:** The WildBlue Development has three recreational lakes: WildBlue Lake North, WildBlue Lake South, and Blue Lake. However, only WildBlue Lake North and WildBlue Lake South are located within the WildBlue Community Development District ('CDD'). Accordingly, for the purposes of this agreement, WildBlue Lake North and WildBlue Lake South are addressed. The WildBlue Lake North and Lake South Boat Management Plan is designed to help ensure boaters can safely operate on the lakes as the development is established and boat densities increase. Residents in the CDD will have access to the two lakes directly through waterfront lots or through community docks and boat ramps for those that are not waterfront. Both lakes are owned and maintained by the CDD. The Boat Management Plan provides boating rules, single family dock construction rules, and snorkeling, SCUBA, & swimming rules. The POA owns the marina and is best equipped and authorized by the CDD to oversee, administer, and enforce the Boat Management Plan over WildBlue Lake North and WildBlue Lake South. In addition to the POA overseeing, administering and enforcing the Boat Management Plan, the POA will also receive, review, grant and/or deny residential dock approvals.

When the POA receives a dock application and the applicant's dock design is one of the Approved Dock Designs as contained in the WildBlue Lake North and WildBlue Lake South Boat Management Plan, then the POA can approve that application pending the WildBlue CDD entering into a 'Dock License Agreement' with the property owner. If the POA receives a dock application for a custom dock design which is not one of the Approved Dock Designs in the Boat Management Plan, then the CDD District Engineer would need to review (at the applicant's expense) and approve the application prior to the POA granting approval; pending the WildBlue CDD entering into a 'Dock License Agreement' with the property owner. The WildBlue Lake North and WildBlue Lake South Boat Management Plan contained herein as Exhibit E is provided for illustrative purposes as the WildBlue Lake North and Lake South Boat Management Plan will be periodically updated and newer versions will be approved by Lee County. The most recent County approved version of the WildBlue Lake North and Lake South Boat Management Plan should be adhered to for the purposes of this agreement.

**Deleted:** snorkling

**Deleted:** If CDD-owned seawalls, littoral plantings, and or lakes are potentially negatively impacted by such proposed docks, the POA will consult the CDD District Engineer and CDD Rules prior to issuing dock approvals. The WildBlue Lake North and Lake South Boat Management Plan is attached as Exhibit E.

**WILDBLUE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**11**

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
FINANCIAL STATEMENTS  
UNAUDITED  
APRIL 30, 2020**

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
BALANCE SHEET  
GOVERNMENTAL FUNDS  
APRIL 30, 2020**

	General Fund	Debt Service Fund	Capital Projects Fund	Total Governmental Funds
<b>ASSETS</b>				
Cash	\$ 334,845	\$ -	\$ -	\$ 334,845
Investments				
Revenue	-	1,281,375	-	1,281,375
Reserve	-	699,516	-	699,516
Construction	-	-	5,972,156	5,972,156
Cost of issuance	-	219	-	219
Undeposited funds	74,037	-	-	74,037
Due from Landowner	-	33,241	-	33,241
Due from general fund	-	66,481	-	66,481
Total assets	<u>\$ 408,882</u>	<u>\$ 2,080,832</u>	<u>\$ 5,972,156</u>	<u>\$ 8,461,870</u>
<b>LIABILITIES AND FUND BALANCES</b>				
Liabilities:				
Accounts payable	\$ 8,409	\$ -	\$ -	\$ 8,409
Due to Developer	52,632	-	-	52,632
Due to debt service fund	66,481	-	-	66,481
Landowner advance	6,000	-	-	6,000
Total liabilities	<u>133,522</u>	<u>-</u>	<u>-</u>	<u>133,522</u>
<b>DEFERRED INFLOWS OF RESOURCES</b>				
Deferred receipts	-	33,241	-	33,241
Total deferred inflows of resources	<u>-</u>	<u>33,241</u>	<u>-</u>	<u>33,241</u>
Fund balances:				
Restricted for:				
Debt service	-	2,047,591	-	2,047,591
Capital projects	-	-	5,972,156	5,972,156
Unassigned	275,360	-	-	275,360
Total fund balances	<u>275,360</u>	<u>2,047,591</u>	<u>5,972,156</u>	<u>8,295,107</u>
Total liabilities, deferred inflows of resources and fund balances	<u>\$ 408,882</u>	<u>\$ 2,080,832</u>	<u>\$ 5,972,156</u>	<u>\$ 8,461,870</u>

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
FOR THE PERIOD ENDED APRIL 30, 2020**

	Current Month	Year to Date	Budget	% of Budget
<b>REVENUES</b>				
Assessment levy: on-roll - net	\$ -	\$ 202,842	\$ 202,789	100%
Assessment levy: off-roll	7,556	149,368	161,376	93%
Landowner contribution	-	6,740	-	N/A
Interlocal agreement - Vista Blue	-	-	13,000	0%
Total revenues	<u>7,556</u>	<u>358,950</u>	<u>377,165</u>	95%
<b>EXPENDITURES</b>				
<b>Professional &amp; administrative</b>				
Management/accounting/recording	4,000	28,000	48,000	58%
Legal	-	12,149	20,000	61%
Engineering	-	6,157	4,000	154%
Audit	-	-	5,500	0%
Arbitrage rebate calculation	-	-	750	0%
Dissemination agent	83	583	1,000	58%
Trustee	-	-	6,500	0%
Telephone	16	116	200	58%
Postage	-	36	500	7%
Printing & binding	42	292	500	58%
Legal advertising	-	1,218	1,200	102%
Annual special district fee	-	175	175	100%
Insurance	-	5,125	5,500	93%
Contingencies/bank charges	-	56	500	11%
Website				
Hosting	-	-	705	0%
ADA compliance	-	199	200	100%
Total professional & administrative	<u>4,141</u>	<u>54,106</u>	<u>95,230</u>	57%
<b>Field operations</b>				
Field management	-	-	10,000	0%
Aquatic maintenance	4,268	21,138	65,000	33%
Conservation area maintenance	-	-	77,000	0%
Conservation area monitoring & reporting	-	715	43,000	2%
Water level and quality reporting	-	-	26,000	0%
Littoral plant replacements	-	-	10,000	0%
Conservation area fence review/repairs	-	-	10,000	0%
Aeration operating supplies	-	-	5,000	0%
Contingencies	-	-	10,000	0%
Shoreline/seawall repair and replacements	-	-	25,000	0%
Total field operations	<u>4,268</u>	<u>21,853</u>	<u>281,000</u>	8%
<b>Other fees and charges</b>				
Property appraiser	-	374	374	100%
Tax collector	-	542	561	97%
Total other fees and charges	<u>-</u>	<u>916</u>	<u>935</u>	98%
Total expenditures	<u>8,409</u>	<u>76,875</u>	<u>377,165</u>	20%

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
FOR THE PERIOD ENDED APRIL 30, 2020**

	<u>Current Month</u>	<u>Year to Date</u>	<u>Budget</u>	<u>% of Budget</u>
Excess/(deficiency) of revenues over/(under) expenditures	(853)	282,075	-	
Fund balances - beginning	276,213	(6,715)	-	
Fund balances - ending	<u>\$ 275,360</u>	<u>\$ 275,360</u>	<u>\$</u>	<u>-</u>

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
DEBT SERVICE FUND  
FOR THE PERIOD ENDED APRIL 30, 2020**

	Current Month	Year To Date	Budget	% of Budget
<b>REVENUES</b>				
Special assessment: on-roll	\$ -	\$ 808,691	\$ 810,570	100%
Special assessment: off-roll	66,481	535,436	582,050	92%
Interest	983	8,758	-	N/A
Total revenues	<u>67,464</u>	<u>1,352,885</u>	<u>1,392,620</u>	97%
<b>EXPENDITURES</b>				
<b>Debt service</b>				
Principal	-	-	415,000	0%
Interest	-	497,325	986,497	50%
Total debt service	<u>-</u>	<u>497,325</u>	<u>1,401,497</u>	35%
Total expenditures	<u>-</u>	<u>497,325</u>	<u>1,401,497</u>	
Excess/(deficiency) of revenues over/(under) expenditures	67,464	855,560	(8,877)	
<b>OTHER FINANCING SOURCES/(USES)</b>				
Transfers out	-	(3,896)	-	N/A
Total other financing sources	<u>-</u>	<u>(3,896)</u>		N/A
Net change in fund balances	67,464	851,664	(8,877)	
Fund balances - beginning	1,980,127	1,195,927	1,192,794	
Fund balances - ending	<u>\$ 2,047,591</u>	<u>\$ 2,047,591</u>	<u>\$ 1,183,917</u>	

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
CAPITAL PROJECTS FUND  
FOR THE PERIOD ENDED APRIL 30, 2020**

	Current Month	Year To Date
<b>REVENUES</b>		
Interest	\$ 3,534	\$ 86,806
Total revenues	<u>3,534</u>	<u>86,806</u>
<b>EXPENDITURES</b>		
Capital outlay	-	7,707,860
Total expenditures	<u>-</u>	<u>7,707,860</u>
Excess/(deficiency) of revenues over/(under) expenditures	3,534	(7,621,054)
<b>OTHER FINANCING SOURCES/(USES)</b>		
Transfer in	-	3,896
Total other financing sources/(uses)	<u>-</u>	<u>3,896</u>
Net change in fund balances	3,534	(7,617,158)
Fund balances - beginning	5,968,622	13,589,314
Fund balances - ending	<u>\$ 5,972,156</u>	<u>\$ 5,972,156</u>

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT**

**12**

**MINUTES OF MEETING  
WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Public Meeting and Regular Meeting on November 7, 2019 at 10:00 a.m., at Barraco and Associates, McGregor Boulevard, Suite 100, Fort Myers, Florida 33901.

#### **Present at the meeting were:**

Russell Smith	Chair
Christopher Hasty	Vice Chair
Chris Johnson	Assistant Secretary
David Caldwell	Assistant Secretary
Barry Ernst	Assistant Secretary

#### **Also present were:**

Craig Wrathell	District Manager
Jonathan Johnson (via telephone)	District Counsel
Carl Barraco	District Engineer

## **FIRST ORDER OF BUSINESS**

26 Mr. Wrathell called the meeting to order at 10:08 a.m. All Supervisors were present, in  
27 person.

## **SECOND ORDER OF BUSINESS**      **Public Comments**

There were no public comments.

**Public Hearing to Hear Public Comments  
and Objections to the Adoption of the  
Amended and Restated Rules of  
Procedure, Pursuant to Section 190.11(5),  
1900011 (15) and 190.35, Florida Statutes  
[2019]**

40    A.    **Affidavits of Publication**

- 41            •
- Notice of Rule Development**

- 42            •
- Notice of Rule Making**

43            The affidavits of publication were provided for informational purposes.

44    B.    **Consideration of Resolution 2020-03, Adopting Amended and Restated Rules of  
45         Procedure; Providing a Severability Clause; and Providing an Effective Date**46            Mr. Wrathell recommended opening the public hearing and then deferring this item to  
47         the next meeting, as additional verbiage in the Rules may be necessary in relation to the  
48         License Agreement for Installation of Improvements and the Agreement for Certain  
49         Maintenance Services of Improvements with the POA; continuing the public hearing would  
50         avoid having to advertise the public hearing again.

51

52            **On MOTION by Mr. Ernst and seconded by Mr. Caldwell, with all in favor, the  
53         Public Hearing was opened.**

54

55

56            In response to the question of how the License and Maintenance Agreements with the  
57         HOA would impact the Rules, Mr. Johnson stated that provisions may have been included in the  
58         License or Maintenance Agreements to give the “force of law” so that the District not only has  
59         contractual rights that it is enforcing and also linking it to the District’s Rules; this would give  
60         the District multiple options for dealing with dock owners and licensing in the future.61            Mr. Wrathell noted that the changes in the current version were related to statutory  
62         changes so there was no need to rush.

63

64            **On MOTION by Mr. Caldwell and seconded by Mr. Hasty, with all in favor,  
65         continuing the Public Hearing to December 5, 2019 at 10:00 a.m., at Barraco  
66         and Associates, 2271 McGregor Boulevard, Suite 100, Fort Myers, Florida  
67         33901, was approved.**

68

69

70            Consideration of Resolution 2020-03 was deferred to the next meeting.

71

72 **FOURTH ORDER OF BUSINESS****Consideration of License Agreement for  
Installation of Improvements**

73

74  
75 Mr. Johnson presented the License Agreement. The Agreement ensures that any docks  
76 that are installed carry the obligation to continue being repaired and maintained and that the  
77 CDD and HOA have the opportunity to inspect and review the plans prior to installation. This  
78 Agreement accomplishes the following:

- 79 ➤ Gives the District an avenue to ensure that it is protected from a liability perspective.  
80 ➤ Ensures that the District's facilities, lank banks, etc., are protected and can be  
81 remediated at the expense of those causing the damage.  
82 ➤ Sets forth the insurance requirements and contains indemnities.  
83 ➤ Sets forth that it is a license, which is used at their peril to the extent that there is a  
84 need for the District to remove the dock, giving the District the right to do so at the expense of  
85 the owner. A final version was expected soon.

86 Consideration of the License Agreement was deferred.

87

88 **FIFTH ORDER OF BUSINESS****Update: Form of Agreement for Certain  
Maintenance Services of Improvements  
with POA**

91

92 Mr. Wrathell presented the Agreement for Certain Maintenance Services of  
93 Improvements with POA and reviewed Exhibit A, which incorporated the changes, additions  
94 and clarifications discussed at the last meeting.

95 Consideration of this Agreement was deferred.

96

97 **SIXTH ORDER OF BUSINESS****Acceptance of Unaudited Financial  
Statements as of September 30, 2019**

100

Mr. Wrathell presented the Unaudited Financial Statements as of September 30, 2019.

101

102 **On MOTION by Mr. Caldwell and seconded by Mr. Smith, with all in favor, the  
103 Unaudited Financial Statements as of September 30, 2019, were accepted.**

104

**105 SEVENTH ORDER OF BUSINESS**      **Consideration of October 3, 2019 Regular**  
**106**      **Meeting Minutes**

108 Mr. Wrathell presented the October 3, 2019 Regular Meeting Minutes.

109

**On MOTION by Mr. Smith and seconded by Mr. Ernst, with all in favor, the October 3, 2019 Regular Meeting Minutes, as presented, were approved.**

112

113

## **114 EIGHTH ORDER OF BUSINESS**

## **EIGHTH ORDER OF BUSINESS**

## **Staff Reports**

115

116 A. District Counsel: *Hopping, Green & Sams, P.A.*

117 There being no report, the next item followed.

**118 B. District Engineer: *Barraco and Associates, Inc.***

119 Mr. Barraco reported the following:

120 ➤ Construction of District infrastructure was proceeding.

121 ➤ A pay requisition to the Developer was prepared and being reviewed by the Developer;  
122 once approved it would be submitted to Management for processing.

123 ➤ Coordination with the District Manager to make sure the District has all easements that  
124 were intended in place; plats were being recorded before the District was ready to accept  
125 anything so it must be confirmed that the easements are to the benefit of the District.

**126 C. District Manager: Wrathell, Hunt and Associates, LLC**

- **NEXT MEETING DATE:** December 5, 2019 at 10:00 a.m.

128 The next meeting will be held on December 5, 2019 at 10:00 a.m.

129 Q QUORUM CHECK

130 This item was not addressed

131

#### **Board Members' Comments/Requests**

133

134 There being no Board Members' comments or requests, the next item followed.

135

**136 TENTH ORDER OF BUSINESS**      **Public Comments**

137

138 There being no public comments, the next item followed.

139

**140 ELEVENTH ORDER OF BUSINESS**      **Adjournment**

141

142 There being nothing further to discuss, the meeting adjourned.

143

144 On MOTION by Mr. Ernst and seconded by Mr. Caldwell, with all in favor, the  
145 meeting adjourned at 10:24 a.m.

146

147

148

149

150

151 [SIGNATURES APPEAR ON THE FOLLOWING PAGE]

152

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Secretary/Assistant Secretary

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Chair/Vice Chair

**WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT**

**13C**

## WILDBLUE COMMUNITY DEVELOPMENT DISTRICT

### BOARD OF SUPERVISORS FISCAL YEAR 2019/2020 MEETING SCHEDULE

#### LOCATION

*offices of Barraco and Associates, 2271 McGregor Boulevard, Suite 100  
Fort Myers, Florida 33901*

DATE	POTENTIAL DISCUSSION/FOCUS	TIME
October 3, 2019	Regular Meeting	10:00 AM
November 7, 2019	Regular Meeting	10:00 AM
December 5, 2019 CANCELED	Regular Meeting	10:00 AM
January 2, 2020 CANCELED	Regular Meeting	10:00 AM
February 6, 2020 CANCELED	Regular Meeting	10:00 AM
March 5, 2020 CANCELED	Regular Meeting	10:00 AM
April 2, 2020 CANCELED	Regular Meeting	10:00 AM
May 7, 2020 CANCELED	Regular Meeting	10:00 AM
June 4, 2020	Virtual Public Meeting	10:00 AM
July 2, 2020	Public Hearing & Regular Meeting	10:00 AM
August 6, 2020	Regular Meeting	10:00 AM
September 3, 2020	Public Hearing & Regular Meeting	10:00 AM