

**MEADOW POINTE COMMUNITY DEVELOPMENT DISTRICT**

**GENERAL AND PROCEDURAL RULES**

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## 1.1 General.

(1) The Meadow Pointe Community Development District (the "District") was established pursuant to the provisions of Chapter 190, Fla. Stat., by Pasco County Ordinance Number 91-15 on October 8, 1991, 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. When used in these rules:

- (a) The singular always includes the plural and the plural always includes the singular.
- (b) The masculine always includes the feminine and the feminine always includes the masculine.

(3) These rules shall take effect on the Effective Date and shall supersede all rules previously adopted by the Board of Supervisors.

Specific Authority: 190.011, 190.012, Fla. Stat.

Law Implemented: 190.011, 190.012, Fla. Stat.

## 1.2 Board of Supervisors; Officers and Duties.

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall exercise the powers granted to the District. The Board shall consist of five members who shall be called "Supervisors". Whether elected or appointed, Supervisors shall be citizens of the United States, residents of the State of Florida and the District, and shall be registered to vote with the Supervisor of Elections of Pasco County, as provided by law.

(2) Supervisors Term of Office. Each supervisor shall serve for a four (4) year term. If at any time during the term of office a vacancy occurs, the remaining Supervisors shall fill the vacancy by appointment for the remainder of the un-expired term, as provided by law.

(3) Board Officers. As soon as practicable after each election or appointment, the Board shall organize by electing one Supervisor as Chair and one Supervisor as Vice Chair. The Board shall also elect a Secretary and a Treasurer, who need not be members of the Board but must be residents of Florida. The Secretary and Treasurer shall serve at the pleasure of the Board and may be removed from office by a majority vote of the Supervisors. In the event that an officer resigns from the office held or ceases to be a Supervisor, the Board shall elect another person who meets the qualifications for the office to serve the remaining portion of the term.

(4) Board Officers' Duties.

(a) Chair:

1. Shall preside over all meetings of the Board and shall preserve order and decorum. In case of disturbance or disorderly conduct during a meeting, the Chair may cause the offending party to be removed from the meeting room.

2. Shall implement the decisions of the Board.

3. Is authorized to sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.

4. Is authorized to call emergency meetings of the Board and approve expenditures affecting the health, safety and/or welfare of the District, its residents, or landowners.

5. Shall decide all questions of order with the assistance of District Counsel or appoint a parliamentarian to assist in all matters of procedure in the absence of District Counsel.

(b) Vice Chair: The Vice Chair shall assume the duties of the Chair in the Chair's absence and shall have such duties and responsibilities as specifically designated by the Board from time to time. In the event that both the Chair and Vice Chair are absent from a meeting in which the quorum requirement has been met, the Supervisors in attendance will appoint one Supervisor to conduct the meeting or have the District Manager conduct the meeting.

(c) Secretary: The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties as assigned by the Board from time to time.

(d) Treasurer: The Treasurer shall perform the duties described in Section 190.007(2) and (3), Fla. Stat., as well as those assigned by the Board from time to time.

(e) District Manager: Pursuant to 190.007(1), Fla. Stat., the Board shall employ, and fix the compensation of, a District Manager, who shall perform the duties outlined in Chapter 190 and other duties assigned by the Board from time to time. The District Manager may serve as Secretary.

(f) District Counsel: The District Counsel shall advise the Board in all matters of law, represent the Board in all judicial and quasi-judicial proceedings, and perform such other duties and responsibilities as the Board directs from time to time.

(5) Committees. The Board may establish committees by formal motion referencing this rule, 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, contract negotiations, personnel matters, and budget preparation.

(6) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings of the Meadow Pointe Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds and corporate acts.

(7) Voting Conflict of Interest. The Board shall comply with Section 112.3143, Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by Chapters 112 and 190, Florida Statutes, as amended from time to time.

(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. The Board member may not vote on that matter. This announcement shall appear in the minutes. 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 attached 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 they have 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 shall immediately be provided to other Board members and shall read publicly at the next meeting held subsequent to the filing of the written memorandum.

Specific Authority: s.s. 190.001, 190.011(5), Fla. Stat.

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

### **1.3 Public Information and Inspection of Records.**

(1) Public Records. All District public records within the meaning of Chapter 119, Fla. Stat., and not otherwise restricted by law, including the "Record of Proceedings of the Meadow Pointe Community Development District," may be copied or inspected at the offices of the District Manager, or such other place as the District may designate, during regular business hours.

(2) Copies. The District will charge the maximum rates for copies authorized by Florida law.

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

Law Implemented: 190.006(7), 119.07(1)(a), 119.07(1)(b), Fla. Stat.

### **1.4 Public Meetings, Hearings and Workshops.**

(1) Schedule. The Board shall adopt a schedule of meetings for the upcoming fiscal year prior to October 1st of each year. The schedule shall reflect the time and place of all regular meetings. Thereafter, the schedule may not be modified except by a majority vote of the Board. The Board may hold special meetings or workshops upon call of the chair or three Board members. Nothing herein shall prevent the Board from holding other meetings, as it deems necessary, or from canceling any regularly scheduled meetings. All meetings shall be open to the public and governed by the provisions of Chapter 286, Fla. Stat.

(2) Notices. Except in emergencies, or as otherwise provided in these Rules, at least seven (7) days' public notice shall be given for any meeting or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and shall state:

(a) The date, time, and place of the meeting or workshop.

(b) A brief description of the nature, subjects and purposes of the meeting, hearing or workshop.

(c) The address where persons may obtain a copy of the proposed agenda.

(d) Pursuant to the 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. If you are hearing or speech impaired, please contact Florida Relay Service at 1-800-955-8770, who can aid you in contacting the District Office.

(e) That if any person decides to appeal any action or decision of the Board, a record of the proceedings may be required. It is the responsibility of the person intending to appeal any decision of the

Board to ensure that a verbatim record of the proceedings is made, including the testimony and evidence necessary for the appeal.

(3) Cancellations of Meetings. When a previously noticed meeting is canceled, notice of cancellation shall be given in substantially the same manner as notice for the meeting or in such other manner as may provide substantially equivalent notice of cancellation except that no newspaper publication shall be required.

(4) Quorum and Attendance by Telephone or Video Conferencing. A majority of the members of the Board constitutes a quorum for the purposes of conducting District business and exercising its powers, and for all other purposes. In order to constitute a quorum, at least three supervisors must be physically present at the meeting at all times. Staff or employees of the District may participate by telephone or video conference, provided that such telephone attendance is accomplished by speakerphone so that all present may hear and respond to the comments of the party attending by telephone.

In the event a supervisor desires to attend by telephone or video conference, the supervisor should notify the District Manager in advance that they will not be able to attend in person and that they would like the Board to consider allowing them to participate and vote by electronic means. The absent Board member must provide a reasonable explanation of the facts and extraordinary circumstances preventing attendance at the meeting. The quorum (three or four) of Board members who are physically present must determine whether an extraordinary circumstance exists and whether to allow the absent board member(s) to vote and participate by telephone or video conference. (The absent member(s) may not participate in that vote.) During the course of the meeting, if the physical quorum of supervisors is lost, then the meeting will have to be adjourned or continued for lack of a physical quorum because the supervisor(s) participating via electronic means cannot be counted toward the minimum quorum requirements. Nothing herein shall require the District to permit members of the public to attend a Board meeting by telephone.

(5) Meeting Agenda. The District Manager or Chairman shall prepare a notice of the meeting and a proposed agenda. The meeting notice and proposed agenda shall be made available to the public in the offices of the District Manager and the District Clubhouse seven (7) days prior to each meeting of the Board. Agendas for meetings shall include the following topics at a minimum:

(a) Call to order, pledge of allegiance and Roll Call.

(b) Audience Questions and Comments.

(c) Additional agenda items such as Consent Agenda (including Minutes, ARC Applications, Financials and Invoices, etc.), Deed Restriction and Architectural Review Matters, Staff Reports, and Supervisors' Items and other items may be added to the agenda as required. Audience comments on any additional agenda items must be allowed prior to a vote by the Board on the additional agenda items.

(d) Adjournment.

(6) Workshop Agenda. The District Manager shall prepare a notice of the workshop and a proposed Agenda. The workshop notice and Agenda shall be made available to the public at the offices of the District Manager and the District Clubhouse seven (7) days prior to the workshop. The Agenda for a workshop shall set forth the topics of discussion for the workshop.

(7) Receipt of Meeting Notices. Persons wishing to receive copies of notices or agendas of meetings and workshops may advise the District Manager or Secretary at the District Manager's office. Such persons shall furnish a mailing address in writing and may be required to pay the cost of copying and mailing.

(8) Order of Meetings.

(a) All action taken by the Board shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(b) Supervisors shall be recognized by the Chair for the purpose of discussion of business, debate on a motion, points of order and points of information.

(c) The current edition of Roberts Rules of Order Revised shall be used as a guide by the Board in all cases in which they are applicable and are not in conflict with provisions of law or the rules and precedents of this Board. The Board may waive, by a majority vote of members present, Roberts Rules on a case-by-case basis.

(d) Motions shall be made orally. However, the Chair may require that a motion be reduced to writing if he deems it necessary for clarity.

(e) Whenever a matter before the Board shall require a vote, the Chair shall call for the "ayes" and "nays" and thereupon shall declare the vote.

(f) Any Supervisor may request a roll call vote on any question. Upon such request, the Chair shall state the nature of the question and thereupon direct the District Manager to call the roll. The District Manager shall call the name of each Supervisor and each Supervisor shall respond "aye," or "nay." The Chair shall vote last and a record of all votes shall be made in the minutes of the meeting.

(g) These rules, with the exception of Roberts Rules as indicated above, may not be waived or suspended except by four-fifths vote of the Supervisors present. Any waiver or suspension shall apply to the specific matter of the debate, shall not extend to any other matter before the Board, and shall not otherwise violate Florida law.

(9) Emergency Meetings. The Chair (or in the Chair's absence, the Vice Chair) may call emergency meetings of the Board without first having complied with Subsection (2), (5), and (7), to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, reasonable efforts will be made to notify all Supervisors of an emergency meeting 24 hours in advance. Reasonable efforts may include telephone notification. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District prior to the meeting. After an emergency meeting, the District Manager shall publish in a newspaper of general circulation in the District, the time, date, and place of the emergency meeting, the reasons why the emergency meeting was necessary, and a description of the action taken. The Board at a regularly noticed meeting subsequently held may ratify actions taken at an emergency meeting.

(10) Public Comments. The public shall be provided the opportunity to be heard on any proposition that will come before the Board at a meeting. The Board shall set aside a reasonable amount of time for public comment on agenda items, and the time for public comment shall be identified in the agenda. Persons wishing to address the Board should notify the Secretary of the Board prior to the "Audience Comment" section of the agenda. Each person wishing to address the Board will be given a reasonable amount of time for their comments, in the interest of time and fairness to other speakers.

(11) Budget Hearings and Amendments. Notice of hearing on the annual budget shall be in accordance with Section 190.008, Fla. Stat. Once adopted, the annual budget 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. Expenditures that will cause the total expenditures in a major category to exceed the total budgeted expenditures for that category in the budget must be approved by the Board in advance of incurring such expense. However, in the case of an emergency expenditure affecting the health, safety or welfare of the District, its residents or landowners, such expenditures must be approved in advance by the Chair, or in the absence of the Chair, the Vice

Chair. Major categories are Administration, Field, Road and Street Facilities, Parks and Recreation, and Garbage/Solid Waste Services. These categories may be amended from time to time, by passage of the annual budgets. Whenever total expenditures in a major category exceed the total budgeted expenditures, the Board must identify funds available in another category or unanticipated revenue to cover the overage.

(12) Continuances. Any meeting of the Board or any item or matter included on the agenda or coming before the Board at a noticed meeting may be continued without re-notice or re-advertising provided that the continuance is to a specified date, time, and location publicly announced at the Board meeting where the item or matter came before the Board.

(13) Resident Committee Meetings. The Board may establish resident committees as needed. Such committee meetings shall be noticed to the public at least seven (7) days in advance. Notice shall be posted at the clubhouse and if available the District website.

Specific Authority: 190.005, 190.011(5), 120.525, 120.54(5), Fla. Stat.

Law Implemented: 190.006(5), 190.007, 190.008, 190.011(5), 120.525, 120.54, 286.0105, 286.0114, Fla. Stat.

## **1.5 Rulemaking Proceedings.**

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to the applicable provisions of Chapter 120, Fla. Stat., and these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District.

(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 proposed rules 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 paragraph (3). 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 a statement of how a person may promptly obtain a copy of any preliminary draft, if available.

(b) All rules should be drafted in accordance with Chapter 120, Fla. Stat.

(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 Fla. Stat. or the Laws of Florida 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), 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 21 days after publication of the notice. The notice must state the procedure for requesting a public hearing on the proposed rule unless one is otherwise scheduled. Except when the intended action is the repeal of a rule, the notice shall include reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

(b) The notice shall be published in a newspaper of general circulation in the District not less than 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. Any person may file a written request with the District Manager or secretary at the Board's office to receive notice by mail of District proceedings to adopt, amend or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least 14 days prior to such mailing, have made requests of the district for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the District Chair 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 for the initiation of rulemaking proceedings pursuant to Section 120.54(7), Fla. Stat., must contain the name, address, and telephone number of the Petitioner, specific action requested, specific reason for adoption, amendment, or repeal, the date submitted, and shall specify 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 rule or action requested. Petitions to initiate rulemaking shall be filed with the District. The Board shall then act on the petition in accordance with requirements of Florida law, except that copies of the petition shall not be sent to the Administrative Procedures Committee, and notice may be given in a newspaper of general circulation in the county in which the District is located.

(6) Rulemaking Materials. After the publication of the notice to initiate rulemaking, the Board shall make available for public inspection and shall provide, upon request and payment of 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; and
- (d) The published notice.

(7) Rulemaking Proceedings - No Hearing. When no hearing is requested and the Board chooses not to initiate a hearing on its own, or if the rule relates exclusively to organization, practice or procedure, the Board may direct the proposed rule be filed with the District Office no less than twenty-eight (28) days following notice. Such direction may be given by the Board either before initiating the rule adoption process or after the expiration of the twenty-one (21) days during which affected persons may request a hearing.

(8) Rulemaking Proceedings - Hearing. If the proposed rule does not relate exclusively to organization, practice or procedure, the District shall provide (upon request) 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. Any affected person may request a hearing within twenty-one (21) days after the date of publication of the notice of intent to adopt, amend or repeal a rule.

(9) Request for a Public Hearing.



(a) A request for a public hearing shall be in writing and shall specify how the person requesting the public hearing would be affected by the proposed rule. The request shall be submitted to the District within 21 days after notice of intent to adopt, amend, or repeal the rule is published as required by law, in accordance with the procedure for submitting requests for public hearing stated in the notice of intent to adopt, amend, or repeal the rule.

(b) If the notice of intent to adopt, amend, or repeal a rule did not notice a public hearing and the District determines to hold a public hearing, the District shall publish notice of a public hearing in a newspaper of general circulation within the District at least 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.

(c) Written statements may be submitted by any person within a specified period of time prior to or following the public hearing. All timely submitted written statements shall be considered by the District and made a part of the rulemaking record.

(10) 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 practical 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.

(11) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54, Fla. Stat.

(12) Variations and Waivers. Variations and waivers from District rules may be granted subject to the provisions and limitations contained in Section 120.542, Fla. Stat.

Specific Authority: 190.011(5), 190.011(15), 120.54, 190.035, Fla. Stat.

Law Implemented: 120.54, 190.035(2), Fla. Stat.

## **1.6 Decisions Determining Substantial Interests.**

(1) Conduct of Proceedings. Proceedings may be held by the District in response to a written request submitted by a substantially affected person within fourteen (14) days after written notice or published notice of District action or notice of District intent to render a decision. Notice of both action taken by the District and the District's intent to render a decision shall state the time limit for requesting a hearing and shall reference the District's procedural rules. If a hearing is held, the Chair shall designate a member of the Board (including the Chair), the District Manager, the District Counsel, or other person to conduct the hearing.

(a) The person conducting the hearing may:

1. Administer oaths and affirmations;
2. Rule upon offers of proof and receive relevant evidence;
3. Regulate the course of the hearing, including any prehearing matters;
4. Enter orders; and
5. Make or receive offers of settlement, stipulation, and adjustment.

(b) The person conducting the hearing 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.

(c) The District shall issue a final order within forty-five (45) days:

1. After the hearing is concluded, if conducted by the Board;
2. After a recommended order is submitted to the Board and mailed to all parties, if the hearing is conducted by persons other than the Board; or
3. After the Board has received the written and oral material it has authorized to be submitted, if there has been no hearing.

(d) This section shall not apply to enforcement actions related to Rule 1.19, Deed Restriction Enforcement, or Rule 1.20, Architectural Review.

(2) Eminent Domain. After determining the need to exercise the power of eminent domain pursuant to Subsection 190.11(11), Fla. Stat., the District shall follow those procedures prescribed in Chapters 73 and 74, Fla. Stat. Prior to exercising the power of eminent domain, the District shall:

(a) Adopt a resolution identifying the property to be taken;

(b) If the property is beyond the boundaries of the District, obtain approval by resolution of the governing body of the county if taking will occur in an unincorporated area, or of the municipality if the taking will occur within the municipality.

Specific Authority: 190.011(5), 190.011(11), 190.011(15), Fla. Stat.

Law Implemented: 190.011(11), 190.012(3), 120.569, Fla. Stat.

## **1.7 Purchasing, Contracts, Construction and Maintenance.**

(1) Purpose and Scope. In order to comply with Sections 190.033(1) through (3), 287.055 and 287.017, Florida Statutes, the following procedures, definitions and rules are outlined for the purchase of professional, construction, maintenance, and contract services, and goods, supplies, materials, and insurance.

(2) Definitions.

(a) “Continuing contract” is a contract for professional services (of a type described above), entered into in accordance with this Rule, between the District and a firm whereby the firm provides professional services for the District for work of a specified nature with no time limitation, except that the contract shall provide a termination clause.

(b) “Contractual services” means rendering time and effort rather than furnishing specific goods or commodities. Contractual services do not include legal (including attorneys, paralegals, court reporters and expert witnesses, including appraisers), artistic, auditing, health, or academic program services, or professional services (as defined in Section 287.055(2)(a), Florida Statutes and these Rules) and shall generally be considered the services referenced by Section 287.012(8), Florida Statutes. Contractual services do not include the extension of an existing contract for services if such extension is provided for in the contract terms.

(c) “Emergency purchases” means a purchase necessitated by a sudden unexpected turn of events (e.g. acts of God, riot, fires, floods, hurricanes, accidents, or ant 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 solicitation would be detrimental to the interests of the District.

(d) “Goods, supplies and materials” do not include printing, insurance, advertising, or legal notices.

(e) “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 involved. It includes printed instructions prescribing conditions for bidding, evaluation criteria, and provides for a manual signature of an authorized representative.

(f) “Lowest Responsible bid/proposal” means, in the sole discretion of the Board, the bid or proposal (i) is submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements and with the integrity and reliability to assure good faith performance, (ii) is responsive to the invitation to bid or request for proposal as determined by the Board, and (iii) is the lowest cost to the District. Minor variations in the bid may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids may not be modified after opening.

(g) “Most Advantageous bid/proposal” means, in the sole discretion of the Board, the bid or proposal (i) is submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements and with the integrity and reliability to assure good faith performance, (ii) is responsive to the invitation to bid or request for proposal as determined by the Board, and (iii) is the most advantageous bid or proposal to the District. Minor variations in the bid may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids may not be modified after opening.

(h) “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 performed by an architect, professional engineer, landscape architect or registered surveyor and mapper, in connection with the firm’s or individual’s professional employment or practice.

(i) “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, 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 from time to time by the State of Florida Department of Management Services to reflect inflation or other measures.

(j) “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 government entity or political subdivision of the state.

(k) “Request for Proposal” 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, proposal instructions, work detail analysis and evaluation criteria as necessary.

(l) “Responsive bid/proposal” means a bid or proposal which conforms in all material respects to the specifications and conditions in the invitation to bid or request for proposal and these Rules, and the cost components of which are appropriately balanced. A bid/proposal is not responsive if

the person or firm submitting the bid fails to meet any requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.033, Fla. Stat.

## **1.8 Purchase of Goods, Supplies, and Materials.**

(1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR, as such category may be amended from time to time, shall be purchased under the terms of these Rules. Contracts for purchases of “goods, supplies, and materials” do not include printing, insurance, advertising or legal notices.

(2) Procedure. When a purchase of goods, supplies or materials is within the scope of this Rule, the following is appropriate:

(a) The Board shall cause to prepare an Invitation to Bid or Request for Proposal, as appropriate.

(b) The Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(c) The District may maintain lists of persons interested in receiving notices of invitations to bid or requests for proposals. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.

(d) Bids or proposals shall be opened at the time and place noted on the Invitation to Bid or Request for Proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these Rules.

(e) The Most Advantageous Bid or Proposal shall be accepted; however, the Board shall have the right to reject all bids, either because they are too high or because the Board determines that it is in the best interests of the District. In the event the bids exceed the amount of funds available to be allocated by the District for this purchase, the bids may be rejected. The board may require bidders to furnish performance and/or other bonds with a responsible surety to be approved by the Board.

(f) Notice of award or 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, and by posting same in the District Office for seven (7) days.

(g) If only one response to an Invitation to Bid or Request for Proposal is received, the District may proceed with the procurement of goods, supplies or materials. If no response to an Invitation to Bid or Request for Proposal is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials.

(h) If the District does not receive a response to its competitive solicitation, the District may proceed to purchase such goods, supplies, materials, or construction services in the manner it deems in the best interests of the District.

(i) 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: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.033, Fla. Stat.

## **1.9 Contracts for Construction of Authorized Project.**

(1) Scope. All contracts for the construction or improvement of any building, structure or other public construction works authorized by Chapter 190, 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, Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and comply with the bidding procedures of Section 255.20, Florida Statutes, as the same may be amended from time to time. In the event of conflict between these Rules and Section 255.20, Florida Statutes, the latter shall control. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure.

(a) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than \$500,000 must be noticed at least thirty (30) days prior to the date of submittal for bids.

(b) The District may maintain lists of persons interested in receiving notices of Invitation to Bid or Requests for Proposals. Persons who provide their name and address to the District Office for inclusion on the list shall receive notices by mail.

(c) To be eligible to submit a bid or proposal, a firm or individual must, at the time of receipt of its bid proposal:

1. Hold all required applicable state professional licenses in good standing.
2. Hold all required applicable federal licenses in good standing, if applicable.
3. If the bidder is a corporation, hold a current and active Florida Corporate Charter or be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes.
4. Meet any special pre-qualification requirement set forth in the bid/proposal specifications.

Evidence of compliance with these Rules may be submitted with the bid or proposal, if required by the District.

(d) Bids or proposals shall be opened at the time, date and place noted on the Invitation to Bid or Request for Proposals. Bids or proposals shall be evaluated in accordance with the Invitation to Bid or Request for Proposal and these Rules.

(e) To assist in the determination of the most advantageous bidder, the District Representative may invite public presentation by firms regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(f) In determining the most advantageous bidder, the District Representative may consider, in addition to the factors described in the invitation or request, the following:

1. The ability and adequacy of the professional personnel employed by each bidder or proposer.
2. The past performance of each bidder or proposer for the District and in other professional employment settings.
3. The willingness of each bidder or proposer to meet time and budget requirements.
4. The geographic location of each bidder or proposer's headquarters or office in relation to the project.
5. The recent, current, and project workloads of the bidder or proposer.
6. The volume of work previously awarded to each bidder or proposer.
7. Whether the cost components of each bid or proposal are appropriately balanced.
8. Whether the bidder or proposer is a certified minority business enterprise.

(g) The Most Advantageous Bid/Proposal shall be accepted; however, the Board shall have the right to reject all bids, either because they are too high or because the Board determines it is in the best interests of the District. The Board may require bidders or proposers to furnish performance bonds and/or other bonds with a responsive surety to be approved by the Board. If the Board receives fewer than three (3) responses to an Invitation to Proposal, the Board, may, in its discretion, re-advertise for additional bids without rejecting any submitted bid or proposal. In the event the bids exceed the amount of funds available to or allocated by the District for this purchase, the bids may be rejected. Bidders or proposers not receiving a contract award shall not be entitled to recover costs of bid or proposal preparation or submittal from the District.

(h) Notice of the award or intent to award, including rejection of some or all bids, shall be provided in writing to all bidders or proposers by United States Mail, or by hand deliver, or by overnight delivery service, and by posting the same in the District Office for seven (7) days.

Specific Authority: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.033, 255.0525, Fla. Stat.

## 1.10 Contracts for Maintenance Service.

(1) Scope. All contracts for maintenance of any District facility or project shall be let under the terms of these Rules if the cost exceeds the amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR, as such category may be amended from time to time by the State of Florida Department of Management Services. The maintenance of these facilities or projects may involve the purchase of contract services and /or goods, supplies or materials as defined herein. Where a contract for maintenance of such facility or project includes goods, supplies or materials and/or contract services, the District may in its sole discretion, award the contract according to the Rules in this subsection in lieu of separately bidding for maintenance, goods, supplies and materials, and contract services. However, a project shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure.

(a) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(b) The District may maintain lists of persons interested in receiving notices of Invitations to Bid or Requests for Proposals. Persons who provide their name and address to the District Office for inclusion on the list shall receive notices by mail.

(c) In order to be eligible to submit a bid or proposal, a firm or individual must, at the time of receipt of the bids or proposals:

1. Hold the required applicable state and professional licenses in good standing.
2. Hold all required applicable federal licenses in good standing, if any.
3. Hold a current and active Florida Corporate Charter or be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes, if the bidder is a corporation.
4. Meet any special pre-qualification requirements set forth in the bid proposal specifications.

Evidence of compliance with these Rules may be submitted with the bid, if required by the District.

(d) Bids or Proposals shall be opened at the time, date and place noted on the Invitation to Bid or Request for Proposal. Bids and Proposals shall be evaluated in accordance with the Invitation or Request and these Rules.

(e) To assist in the determination of the Most Advantageous Bid or Proposal, the District Representative may invite public presentation by firms regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(f) In determining the Most Advantageous Bid or Proposal, the District Representative may consider, in addition to the factors described in the Invitation or request, the following:

1. The ability and adequacy of the professional personnel employed by each bidder or proposer.

2. The past performance of each bidder or proposer for the District and in other professional employment settings.
3. The willingness of each bidder or proposer to meet time and budget requirements.
4. The geographic location of each bidder or proposer's headquarters or office in relation to the project.
5. The recent, current, and project workloads of the bidder or proposer.
6. The volume of work previously awarded to each bidder or proposer.
7. Whether the cost components of each bid or proposal are appropriately balanced.
8. Whether the bidder or proposer is a certified minority business enterprise.

(g) The Most Advantageous Bid or Proposal may be accepted; however, the Board shall have the right to reject all bids or proposals, either because they are too high or because the Board determines it is in the best interests of the District. The Board may require bidders to furnish performance bonds and/or other bonds with a responsive surety to be approved by the Board. If the Board receives fewer than three (3) responses to an Invitation to Proposal, the Board, may, in its discretion, re-advertise for additional bids without rejecting any submitted bid or proposal. In the event the bids or proposals exceed the amount of funds available to or allocated by the District for this purchase, the bids or proposals may be rejected. Bidders or proposers not receiving a contract award shall not be entitled to recover costs of bid or proposal preparation or submittal from the District.

(h) Notice of the award or intent to award, including rejection of some or all bids or proposals, shall be provided in writing to all bidders or proposers by United States Mail, or by hand deliver, or by overnight delivery service, and by posting the same in the District Office for seven (7) days.

Specific Authority: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.033, Fla. Stat.

### **1.11 Purchase of Insurance.**

(1) Scope. The purchase of life, health, accident, hospitalization, legal expense, or annuity insurance, or all or any kind 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 these Rules. 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 Invitation to Bid may be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.



(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. Persons who provide their name and address to the District Office for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted in the Invitation to Bid.

(e) If only one (1) response to an Invitation to Bid 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 which 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, 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 need of the District, its officers, employees and/or dependents.

(h) Notice of the award or 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 service, and by posting the same in the District Office for seven (7) days.

Specific Authority: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 112.08, Fla. Stat.

## **1.12 Procedure for Purchasing Contractual Services.**

(1) Scope. All purchases for contractual services (except for maintenance services) may, but are not required to, be made by competitive Invitation to Bid. If state or federal law prescribes with whom the District must contract, or established the rate of payment, then these Rules shall not apply. A contract involving both goods, supplies, and materials plus contractual services may, at the discretion of the Board, be treated as a contract for goods, supplies, and materials.

(2) Procedure. When a purchase of contractual services is within the scope of this Rule (and the District has elected to follow this procedure), the following procedure shall be followed:

(a) The Board shall cause to be prepared a notice of Invitation to Bid or Request for Proposal, as appropriate.

(b) Notice of Invitation to Bid shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid or Requests for Proposals. The District shall make a good faith effort to provide written notice, by United States Mail, to persons who provide their names and addresses to the District Office for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be the basis for a protest of any contract award.

(d) Bids or proposals shall be opened at the time and place noted on the Invitation to Bid and Request for Proposal. Bids and proposals shall be evaluated in accordance with Invitation to Bid or Request for Proposal and these Rules.

(e) If only one (1) response to an Invitation to Bid or Request for Proposal is received, the District may proceed with the procurement for contractual services from such bidder or proposer. If no response to an Invitation to Bid or Request for Proposal is received, the District may take whatever steps are reasonably necessary in order to proceed with the procurement of the needed contractual services.

(f) The Board has the right to reject any and all bids or proposals. The reservation regarding the right to reject shall be included in all solicitations and advertisements. If the bids or proposals exceed the amount of funds available to or allocated by the District for this purchase, the bids or proposals may be rejected. Bidders and proposers not receiving a contract award shall not be entitled to recover any costs of bid or proposal preparation or submittal from the District.

(g) The Most Advantageous Bid or Proposal may be accepted by the District. The Board may require bidders to furnish bid, performance and/or other bonds with a reasonable surety to be approved by the Board.

(3) Notice. Notice of contract award, including the rejection of some or all bids or proposals, shall be provided in writing to all bidders or proposers by United States Mail, overnight delivery, or by hand delivery, and by posting same in the District Office for seven (7) days.

(4) Contract Renewal. Renewal of a contract for contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract, unless otherwise provided in the initial contract. Renewal shall be contingent upon satisfactory performance evaluations by the District.

(5) Contract Manager and Contract Administrator. The Board may designate a representative to function as contract manager, who shall be responsible for enforcing performance of the contract terms and conditions and serve as the liaison with the contractor. The Board may also designate a representative to function as contract administrator, who shall be responsible for maintaining all contract files and financial information. One person may serve as both contract manager and administrator.

(6) Emergency Purchase. The District may make an emergency purchase of contractual services 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.

(7) Continuing Contract. Nothing in this Rule shall prohibit a continuing contract between a firm or an individual and the District.

Specific Authority: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.033(3), Fla. Stat.

### 1.13 Procedure Under Consultant's Competitive Negotiations Act.

In order to comply with the requirements of Section 287.055, Florida Statutes (regarding certain types of professional services), the following procedures are outlined for selection of firms or individuals to provide professional services exceeding the thresholds herein described and in the negotiation of such contracts.

(1) Qualifying Procedures. In order to be eligible to submit a bid or proposal, a firm must, at the time of receipt of the bid or proposal:

- (a) Hold all required applicable state professional licenses in good standing.
- (b) Hold all required applicable federal licenses in good standing, if any.
- (c) If the bidder is a corporation, hold a current and active Florida Corporate Charter or be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes.
- (d) Meet any pre-qualification requirements set forth in the project or bid specifications. Qualification standards may include, but are not limited to, capability and adequacy of personnel, past record, and experience of the bidding entity.

Evidence of compliance with this Rule may be submitted with the bid, if requested by the District.

(2) Public Announcement. Prior to a public announcement that professional services are required for a project, the Board shall identify the project as meeting the threshold requirement. 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 by publishing a notice providing a general description of the project and 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 District may maintain lists of persons interested in receiving such notices. These persons are encouraged to submit annually statements of qualifications and performance data. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all bids, and such reservation shall be included in the public announcement. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(3) Competitive Selection.

(a) The Board shall review and evaluate the data submitted in response to the notice described above regarding qualifications and performance ability, as well as any statements of qualification of file. The Board shall conduct discussions with, and may require public presentation by firms regarding their qualifications, and/or public presentation, select and list the firms, 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:

- 1. The ability and adequacy of the professional personnel employed by each firm.
- 2. Each firm's past performance for the District in other professional employment settings.
- 3. The willingness of each firm to meet time and budget requirements.

4. The geographic location of each firm's headquarters or office in relation to the project.
5. The recent, current, and projected workloads of each firm.
6. The volume of work previously awarded to each firm.
7. Whether a firm is a certified minority business enterprise.

Nothing in these Rules shall prevent the District from evaluating and eventually selecting a firm if less than three (3) responses, including responses indicating a desire not to submit a formal bid on a given project, are received.

(b) If the selection process is administered by a person 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.

(4) Competitive Negotiation.

(a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as the most qualified to perform the required professional services.

(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, 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 within twenty-one (21) days 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 unless modified by the Board, 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 within twenty-one (21) days (unless modified by the Board to the contrary) 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 any of the selected firms within twenty-one (21) days (unless modified by the Board to the contrary) 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.

(e) Once an agreement with a firm or individual is reached, notice of the award or intent to award, including the 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, and by posting same in the District Office for seven (7) days.

(5) Continuing Contract. Nothing in this Rule shall prohibit a continuing contract between a firm or an individual and the District.

(6) 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: s.s. 190.011(5), Fla. Stat.

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

#### **1.14 Bid Protests Under Consultants' Competitive Negotiations Act.**

Notwithstanding any other provision in these Rules, the resolution of any protests regarding the decision to solicit or award a contract for a bid or proposal shall be in accordance with this section.

(1) Notice. The District shall give all bidders written notice of its decision to award or intent to award a contract, including rejection of some or all bids, by United States Mail (which shall be deemed delivered two (2) days after delivery to the U.S. Postal Service), by certified/registered mail return receipt requested, by hand delivery, or by overnight delivery service (which shall be deemed delivered by the next business day), and by posting same in the District Office for seven (7) days. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Section 1.14 of the Rules of the Meadow Pointe Community Development District shall constitute a waiver of proceedings under those Rules."

(2) Filing. Any person who is affected adversely by the District's decision or intended decision shall file with the District a notice of protest within seventy-two (72) hours after the posting of the final bid tabulation or after receipt of the notice of the District decision or intended decision, and shall file a formal written protest within seven (7) days after the date of filing of the notice of protest. The notice of protest shall identify the procurement by title and number or any other language that will enable the District to identify it, shall state that the person intends to protest the decision, and shall state with particularity the law and facts upon which the protest is based. With respect to a protest of the specifications contained in an Invitation to Bid or in a Request for Proposals, the notice of protest shall be filed in writing within seventy-two (72) hours after the receipt of the notice of the project plans and specifications (or intended project plans and specifications) in an Invitation to Bid or Request for Proposals, and the formal written protest shall be filed within seven (7) days after the date when notice of protest is filed. Failure to file a notice of protest, or failure to file a formal written protest, shall constitute a waiver of all further proceedings.

(3) Award Process. Upon a receipt of a notice of protest which has been timely filed, the District shall stop the bid solicitation process (or the contract and award process) until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances which require the continuance of the process without delay in order to avoid immediate and serious danger to the public health, safety, or welfare, the award process may continue.

(4) Mutual Agreement. The District, on its own initiative or upon the request of a protester, shall provide an opportunity to resolve the protest by mutual agreement between the parties within seven (7) days, excluding Saturdays, Sundays and legal holidays, upon receipt of a formal written request.

(5) Proceedings. If the subject of a protest is not resolved by mutual agreement, a proceeding shall be conducted in accordance with the procedural guidelines set forth in Section 1.6.

Specific Authority: s.s. 120.57(3), 190.011(5) Fla. Stat.

Law Implemented: s.s. 120.57(3), 190.033, Fla. Stat.

### **1.15 Protests With Respect To Contracts Awarded Or Bid Documents.**

The resolution of any protests regarding Bid Documents or the decision to award a contract for a bid or proposal shall be in accordance with section 1.15.

(1) Notice. The District shall give all bidders or proposers written notice of a decision to award or to reject all bids by posting the notice in the District Office for seven (7) days, with a copy being provided to all submitting firms by United States Mail (which shall be deemed delivered two (2) days after delivery to the U.S. Postal Service), by certified/registered mail return receipt requested, or by hand delivery. The notice shall include the following statement: “Failure to file a written protest with the District within seventy-two (72) hours following the receipt of notice of the District’s decision to award a contract shall constitute a waiver of any objection to the award of such contract.”

(2) Filing.

(a) Any firm or person who is affected adversely by a District decision to award a contract shall file with the District a written notice of protest within seventy-two (72) hours after receipt of the notice of the District’s decision, and shall file a formal written protest with the District within seven (7) calendar days after timely filing the initial notice of protest. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt of the District. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of any right to object to or protest the District’s decision or contract award. The formal written protest shall state with particularity the facts and law upon which the protest is based.

(b) With respect to a protest regarding the Bid Documents, including specifications or other requirements contained in an Invitation to Bid or in a Request for Proposals, the notice of protest shall be filed in writing within seventy-two (72) hours after the receipt of the proposed project plans and specifications or other contract documents. The formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days after the initial notice of protest was filed. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of any right to object to or protest with respect to the aforesaid plans, specifications or contract documents.

(3) Award Process. Upon receipt of a timely filed notice of protest, the District shall abate the contract award process until the protest is resolved by final Board action. However, if the District determines particular facts and circumstances require the continuance of the contract award process without delay in order to avoid immediate and serious danger to the public health, safety, or welfare, the contract award process may continue. In such circumstances, the contract awarded shall be conditioned on the outcome of the protest.

(4) 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 posted in the office of the District not less than three (3) calendar days prior to such

informal proceeding, with copy being mailed to the protestant and any substantially affected person or parties. Within fifteen (15) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.

(5) 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 above, the District shall schedule a formal hearing to resolve the protest in accordance with the procedural guidelines set forth in Section 1.6.

Specific Authority: s.s. 120.57, 190 011(5), Fla. Stat.

Law Implemented: s.s. 190.033, Fla. Stat.

### **1.16 Bid Protests Relating to Any Other Award.**

Notwithstanding any other provision in these Rules, the resolution of any other protests regarding the decision to solicit or award a contract for a bid proposal shall be in accordance with this section.

(1) Notice. The District shall give all bidders written notice of its decision to award or intent to award a contract, including rejection of some or all bids, by United States Mail (which shall be deemed delivered two (2) days after delivery to the U.S. Postal Service), by certified/registered mail return receipt requested, by hand delivery, or by overnight delivery service (which shall be deemed delivered on the next business day), and by posting same in the District Office for seven (7) calendar days.

(2) Filing. Any person who is adversely affected by the District's decision or intended decision shall file with the District a notice of protest in writing within seventy-two (72) hours after the posting of the final bid tabulation or after receipt of the notice of the District decision or intended decision, and shall file a formal written protest within seven (7) days after the date of filing of the notice of protest. The formal written protest shall state with particularity facts and law upon which the protest is based. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of all further proceedings.

(3) Award Process. Upon receipt of a notice of protest which has been timely filed, the District shall stop the bid solicitation process or the contract and award process until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances which require the continuance of the process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare, the award process may continue.

(4) Mutual Agreement. The District, on its own initiative or upon the request of a protester, shall provide an opportunity to resolve the protest by mutual agreement between the parties within five (5) days, excluding Saturdays, Sundays and legal holidays, of receipt of a formal written protest.

(5) Hearing. If the subject of a protest is not resolved by mutual agreement, the District shall hold a proceeding in accordance with the procedural guidelines set forth in Section 1.6.

Specific Authority: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.033, Fla. Stat.

### 1.17 Design-Build Contract Competitive Proposal Selection Process.

(1) Scope. The District may utilize design-build contracts for any public construction project for which the Board determines that use of such contracts in the best interest of the District. When letting a design/build contract, the District shall use the following procedure:

(a) The District shall utilize a design criteria professional meeting the requirements of Section 287.055(2)(k) when developing a design criteria package, evaluating the responses or bids 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 or may be retained using Section 1.13, Procedure Under Consultant's Competitive Negotiations Act.

(b) A design criteria package for the construction project shall be developed and sealed by the design criteria professional. The package shall include concise, performance –oriented drawings or specifications of the project, and shall include sufficient information to put interested firms on notice of substantially all of the requirements of the project. 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. All 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.

(c) The Board, in consultation with the design criteria professional, shall establish the standards and procedures for the evaluation of design-build proposals based on price, technical, and design aspects of the project, weighted for the project.

(d) After the 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 seven (7) days for submittal of proposals, unless the Board, for good cause, determines a shorter period of time is appropriate.
2. The District may maintain qualifications information, including: capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small Business and Minority Assistance Act of 1985, and other factors, on design-build firms. Such firms shall receive a copy of the request for proposals by mail.
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 license in good standing, as defined by Section 287.055(2)(h), 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 Florida in accordance with Chapter 607, Florida Statutes, if the bidder is a corporation.



- (d) Meet any special prequalification requirements set forth in the design criteria package.

Evidence of compliance with these Rules may be submitted with the bid, if required by the District.

(e) The Board shall select no fewer than three (3) design-build firms as the most qualified, based on the information submitted in the response to the request for proposals, and in consultation with the design criteria professional, shall evaluate their proposals based on the evaluation standards and procedures established prior to the solicitation of requests for proposal.

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

(g) After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

(h) The design criteria professional shall evaluate the compliance of the project construction with the design criteria package, and shall provide the Board with a report of the same.

(2) 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.

Specific Authority: s.s. 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.033, 255.20, Fla. Stat.

**Rule 1.18 Community Center User/Membership Fees and Suspension/Revocation of Privileges.**

(1) Resident Fees: District recreational facilities have been built to accommodate residents of the District. Therefore, owners of residential properties not living in the District will be subject to the fees established for non-residents outlined below. Tenants living in rental properties in the District have access to District facilities and are subject to the fees established for residents outlined below. Proof of tenancy is required. Key fobs for eligible users of facilities are available for purchase at the rate of \$25.00 per key fob.

(2) Sales Tax. All fees contained in this section are inclusive of sales taxes.

(3) Non-resident Memberships. Community Center facilities, including the District's pools, exercise facility, tennis, volleyball, basketball, shuffleboard, and racquetball courts, may be used by non-residents of the District, during established hours of operation, on an annual basis upon payment of an annual

membership fee in the amount of \$2,200.00. The fees shall be the same for an individual or the individual and members of the individual's immediate family, i.e. spouse and children. Non-resident members may not bring guests into the facilities and shall follow all District rules and regulations while utilizing the facilities. Failure to obey District rules and regulations shall result in termination of the non-resident's membership without refund of paid fees.

(4) Clubhouse A and Activity Room 1, Clubhouse C Rental Fees. Activity Room 1 is the room with kitchen facilities. Residents and non-residents may reserve either room for periods of time not to exceed 4 hours for private events. Resident fees shall be \$75.00 for all events, In addition, residents shall pay a security deposit for damage/cleaning in the amount of \$300.00. Non-resident fees for either room shall be \$500.00 plus a security deposit for damage/cleaning in the amount of \$500.00. Resident and non-resident users shall follow all District rules and regulations while utilizing the facilities. Failure to obey Community Center Rules, terms of the license agreement, end the event within the time specified by the license agreement (including any time necessary to clean up the Clubhouse and relocate all furniture to the original configuration), will result in forfeiture of the security deposit. All events shall terminate in accordance with the lease agreement.

(5) Activity Room 2, Clubhouse C. Activity Room 2 is the room without kitchen facilities. Residents and non-residents may reserve the room for periods of time not to exceed 4 hours for private events. Resident rental fees for all users shall be \$25.00 per hour. In addition, residents and non-residents shall pay a security deposit for damage/cleaning in the amount of \$200.00. Resident and non-resident users shall follow all District rules and regulations while utilizing the facilities. Failure to obey Community Center Rules, terms of the license agreement, end the event within the time specified by the license agreement (including any time necessary to clean up the Clubhouse and relocate all furniture to the original configuration), will result in forfeiture of the security deposit. All events shall terminate in accordance with the lease agreement.

(6) Commercial Use of Facilities. District facilities may be used for "For Profit" activities when it is determined by the Board that the activity provides a service to the residents of the District. The individual, organization, or corporation conducting the activity will be required to enter into a licensing agreement with the District, acquire and maintain general commercial liability insurance acceptable to the District in an amount not less than \$1,000,000, per occurrence, and \$2,000,000 aggregate, with the District as a named insured. Rental fees will be equivalent to the hourly resident fees for the room in which the activity is held. Outdoor facility fees will be established on a case-by-case basis agreed to between the District and the individual, organization, or corporation; provided, however, that the per hour rental rate for residents using the outdoor multipurpose court is \$15.00 per hour plus a \$200.00 security deposit for damage/cleaning.

(7) Use of Facilities by Not-for-Profit Organizations. District facilities may be used by Not-for-Profit Organizations on a space available basis when it is determined to be in the best interest of the District. Fees will be established on a case-by-case basis agreed to between the District and the organization and liability insurance and/or deposit may be required at the discretion of the District.

(8) Suspension/Revocation of Use Privileges.

(a) Suspension/Revocation of Use Privileges may be imposed under the provisions of Rule 1.19 (8).

(b) Improper conduct, obscenities, verbal or physical threats by residents and/or guests will not be tolerated anywhere in or on common areas or District facilities. Actions by any person which may be dangerous, create a health or safety concern, create a hostile environment, or disturb others, are not permitted. This includes, but is not limited to, intoxication, quarreling, threatening, fighting, and offensive/abusive language or behavior. Residents are also responsible for family and guests, and their conduct while on District Property. District Staff have the right to ask any person(s) to cease their

conduct and/or leave the premises as a result of their conduct if they violate the rules and regulations of the District. If the person(s) causing or participating in inappropriate behavior refuses to cease their activities and/or leave the premises promptly when directed, the person(s) will be advised that failure to do so immediately may result in a suspension of user privileges in or on District facilities and/or law enforcement may be contacted. In any case where the inappropriate conduct is so serious as to cause concern for the safety of staff or users of the facilities, District Staff may, with the approval of the Chair (or Vice-Chair in the absence of the Chair), temporarily suspend such person(s) user privileges, and within thirty (30) days following the event, the Board shall meet to determine the duration of the suspension. Prior to the Board considering suspension of user privileges or the duration of a temporary suspension, the affected person(s) shall be provided with (i) not less than five (5) business days written notice of the date and time the Board will meet to consider and determine the suspension, and (ii) an opportunity to be heard by the Board at the meeting. Suspended person(s) may petition the Board to lift the suspension/revocation at any subsequent Board meeting.

(c) Reinstatement of Use Privileges suspended under the provisions of (8)b will only occur at the end of the suspension period and payment of a suspension/reinstatement administrative fee of \$50.00

Specific Authority: s.s. 190.011 (5), Fla. Stat.

Law Implemented: s.s. 190-035, Fla. Stat.

#### **Rule 1.19 Enforcement of Deed Restrictions and Suspension/Revocation of Use Privileges**

(1) Enforcement. The District may enforce deed restrictions governing the use and operation of real property located in the District. The Board shall determine whether enforcement of the deed restrictions by the District is appropriate. For purposes of this Rule, term “deed restrictions” shall mean those covenants, conditions and restrictions contained in any applicable declarations of covenants and restrictions affecting real property located in the District.

(2) Records. Each time the District receives a written report that a violation has occurred, the designated District representative (referred to for purposes of this Rule as the “District Representative”) shall create a record of the report and the alleged violation, and inspect the property to determine whether a violation has occurred.

(3) Review. Whenever a reported violation relates to an alteration, modification or addition to an existing building or to the erection or construction of a new building (referred to for purposes of this Rule as the “Improvements”), the District Representative shall research the District’s records to determine whether the Improvements were approved, and if so, whether the Improvements conform to the approved plans and conditions.

(4) Landowner Notice. If the District Representative determines that the property is in violation of deed restrictions, then the District Representative shall send a written notice to the owner of the property (referred to for purposes of this Rule as the “Landowner”) describing the nature of the violation, the corrective action required, and the date by which corrective action must be taken and completed, which shall be within fourteen (14) days from the date of the notice. After the date established by any written notice from the District to a Landowner requiring corrective action, the District Representative shall inspect the property and determine whether the violation has been corrected. In cases where the violation has been corrected, the District Representative shall document the District’s records and, unless fines remain unpaid, close the case.

(5) Deed Restriction Violation Board. Upon failure of the Landowner to correct the violation after receipt of the warning letter from the District Representative, the case shall be referred to the District's Deed Restriction Violation Board (the "DRVVB"). The DRVVB shall be established by the Board, and shall be composed of at least three (3) members appointed by the Board who are not officers, directors, or employees of the District, or the spouse, parent, child, brother or sister of any officer, director or employee of the District. In making appointments to the DRVVB, the Board shall give preference to owners of property within the District. The District Representative shall also investigate whether the deed restriction violation may constitute a violation of the Pasco County Code, and if so, report the violation to the County's code enforcement office for action. Reporting a code violation shall not preclude further action by the District.

(6) Notice of DRVVB Hearing. Upon receipt of the case, and with the assistance of the Operations Manager, the DRVVB shall provide the Landowner with reasonable notice and an opportunity for a hearing, before the DRVVB makes any findings, and imposes any fines or suspension of use of Community Center facilities. Reasonable notice for purposes of this Rule shall consist of written notice mailed to the Landowner by certified mail (with proof of mailing) not less than fourteen (14) days prior to the hearing. The written notice shall advise the Landowner of the scheduled date, time and place for the hearing, and shall contain a statement to the effect that it is the Landowner's responsibility to provide for and obtain a verbatim transcript of the hearing, if one is desired.

(7) DRVVB Hearing. After receiving evidence which may consist of documents and/or testimony concerning the alleged violation and providing the Landowner with an opportunity for a hearing, the DRVVB shall make appropriate findings of fact, determine whether a violation has occurred, and impose any fines and/or suspension of use of Community Center facilities as permitted by paragraph 720.305, Florida Statutes, and any other course of action deemed appropriate under the circumstances. All meetings of the DRVVB shall be duly noticed public meetings which are subject to the Sunshine Law, and all records from any meeting or hearing shall be public records. The decision of the DRVVB shall be determined by a majority vote.

(8) Fines and Suspensions. If the DRVVB imposes, by a majority vote, a fine or the suspension of the Landowner's rights to use the Community Center facilities, such fines on the Landowner will continue until such time as the District determines the violation has been cured or the maximum fine has been imposed. Suspension of the Landowner's Community Center use rights shall include the Landowner's guests, invitees and tenants and shall continue until the violation(s) are cured and all fines are paid. At least fourteen (14) days prior to imposing any fine or suspending the Landowner's right to use the facilities, the District shall provide written notice of such fine and/or suspension by certified mail (with proof of mailing). Fines shall not exceed \$100.00 per violation, and in the case of a continuing violation, fines may be assessed on a daily basis provided the aggregate amount of the fine shall not exceed \$1,000.00.

(9) Notice of Cure. The Landowner shall be responsible for notifying the District, in writing, that the violation has been removed or otherwise cured. Upon receipt of written notice of cure, the District Representative shall inspect the property. If the District Representative determines that the violation has not been cured, the Landowner shall be provided written notice of the determination, specifying the actions required to cure the violation. Fines will continue until the maximum fine is reached or the violation is cured.

(10) Payment Demand. Upon reaching the maximum fine or upon cure of a violation after fines have been levied, a letter shall be sent to the Landowner and tenants, if applicable, demanding payment of fines levied. If the violation has not been cured, the letter shall be sent by the District Counsel.

(11) Appeal. Any fine or suspension of rights to use the Community Center facilities may be appealed to the Board of Supervisors. The appeal must be submitted in writing to the Chair, and shall set forth the specific factual and/or legal grounds for the appeal, and the nature of any hardship asserted by the Landowner, if any. Upon receipt, the appeal shall be heard at the next practical time during a regular monthly meeting of the Board. In considering the appeal, the Board shall consider whether the violation has been cured, whether the sanctions were justified at the time they were imposed, the nature and duration of the violation, whether the Landowner is a repeat violator, and the extent to which the Landowner demonstrates the existence of a hardship. Following the Board's decision on the appeal, written confirmation of the Board's decision shall be mailed to the Landowner. The filing of an appeal shall not suspend any fine or other sanction previously imposed by the District.

(12) Notices. All written notices required by this Rule shall be sent to the address listed for the Landowner in the Pasco County Tax Collector's office or such other address as may have been requested for notice by the Landowner in writing. Service of all such notices shall be effective upon mailing.

(13) Repeat Violators. Repeat Violators are those Landowners who have been cited for any previous violations within two (2) years of the date of the current violation.

(14) Authorization for this Rule. Authorization for this Rule is established primarily by Chapter 2004-417, Laws of Florida. Interested parties must follow the requirements of applicable statutes as well as these Rules.

Specific Authority: Ch. 2004-417, Laws of Fla.; 120.53(4), Fla. Stat.

Law Implemented: Ch. 2004-417, Laws of Fla.; 120.53(4), Fla. Stat.

## **1.20 Architectural Review.**

The Board shall adopt an Architectural Review Policy and establish appropriate standards for architectural review.

Specific Authority: Ch. 2004-417, Laws of Fla.

Law Implemented: Ch. 2004-417, Laws of Fla.

## **1.21 District Auditor Selection Procedures.**

Prior to selecting an auditor to conduct the annual financial audit as required in section 218.39, Florida Statutes, the District shall use the auditor selection procedures as required under section 218.391, Florida Statutes.

Specific Authority: s. 190.011(5), Fla. Stat.

Law Implemented: s. 218.391, Fla. Stat.

## **Rule 1.22. Effective Date.**

These rules shall be effective on October 20, 2022, and supersede rules effective November 3, 2016.