

**Waterford Estates Community
Development District**

**Chapter I
Rules of Procedure**

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WATERFORD ESTATES COMMUNITY DEVELOPMENT DISTRICT GENERAL AND PROCEDURAL RULES

1.1 GENERAL.

(1) The Waterford Estates Community Development District ("the District") was created pursuant to the provisions of Chapter 190, Florida Statutes, to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these General and Procedural 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.

Specific Authority: 190.011, 120.53(4), Fla. Stat.

Law Implemented: 190.011, 120.53(4), Fla. Stat.

1.2 BOARD OF SUPERVISORS; OFFICERS AND VOTING.

(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. Members of the Board must be residents of Florida and citizens of the United States.

(2) Term of Officers. Board members shall hold office pursuant to section 190.006, Florida Statutes. If, during the term of office of any Board member(s), one or more vacancies occur, the remaining member(s) of the Board shall fill the vacancies by appointment for the remainder of the unexpired term(s).

(3) Vacancies; Quorum. Three members of the Board shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. However, if three or more vacancies occur at the same time, a quorum is not necessary to fill the vacancies. Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in these Rules or required by law. Members of the Board, as well as staff or employees of the District may be present by telephone, provided that such telephone attendance is accomplished by speaker so that all present may hear and respond to the comments of the party attending by telephone. Nothing in these rules shall require the District to permit members of the public to attend a Board meeting by telephone.

(4) Officers. At any Board meeting held after each election where the newly elected members take office, the Board may select a chair, vice chair/treasurer/assistant secretary, and secretary. Such selection may be deferred to subsequent meetings.

(a) The chair must be a member of the Board. If the chair resigns from that office or ceases to be a member of the Board, the Board shall select a chair after filling the board vacancy. The Chair serves at the pleasure of the Board of Supervisors. The chair may be authorized to sign checks and warrants for the District, countersigned by the treasurer or other persons authorized by the Board. The chair may convene and conduct all meetings of the Board. In the event the chair is unable to attend a meeting, the vice chair or other member of the Board may convene and conduct the meeting.

(b) The vice chair shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. If the vice chair resigns from that office or ceases to be a member of the Board, the Board shall select a vice chair, after filling the Board vacancy. The vice chair serves at the pleasure of the Board of Supervisors.

(c) The secretary of the Board serves at the pleasure of the Board and need not be member of the Board. The secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. The District Manager may serve as secretary.

(d) The treasurer need not be a member of the Board but must be a resident of Florida. The treasurer shall perform duties described in section 190.007(2) and (3), Florida Statutes, as well as those assigned by the Board from time to time. The treasurer shall serve at the pleasure of the Board.

(5) Committees. The Board may establish committees of the Board 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.

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

(7) Meetings. The Board shall establish a schedule of regular meetings and may also meet upon call of the chair or three Board members. Nothing in these

Rules shall prevent the Board meetings. A previously noticed regular meeting may be canceled, provided that 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. All meetings of the Board shall be open to the public and governed by the provisions of Chapter 286, Florida Statutes.

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

Law Implemented: 190.006(1), 190.006(4), 190.006(5), 190.006(6), 190.006(7), 190.006(9), 190.007, 112.3143, 120.525, 112.3143(4)(b), Fla. Stat.

PUBLIC INFORMATION AND INSPECTION OF RECORDS.

(1) Public Records. All Districts public records within the meaning of chapter 119, Florida Statutes, and not otherwise restricted by law, including the "Record of Proceedings of Waterford Estates Community Development District," may be copied or inspected at the offices of the District Manager at 5701 N. Pine Island Rd., Suite 370, Ft. Lauderdale, FL 33321 or at the

(2) Copies. Copies of public records shall be made available to the requesting person at a charge of \$0.25 per page if not more than 8-1/2 by 14 inches, and for copies in excess of that size, at a charge not to exceed the actual cost of reproduction. Certified copies of public records shall be made available at a charge of \$1.00 per page. If the nature or volume of public records requested to be inspected, examined, or copied is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance, a special service charge, which shall be responsible and based on the actual cost incurred, may be charged in addition to the actual cost of duplication.

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

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

1.3 MEETINGS AND WORKSHOPS.

(1) Notice. Except in emergencies, or as otherwise provided in these Rules, at least seven (7) days' public notice shall be given of 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 or workshop;

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

(d) The notice shall state that if a person decides to seek review of any official decision made at the Board meeting, a record of the proceedings will be required and the person intending to appeal will need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence necessary for the appeal.

(2) Agenda. The District Manager shall prepare a notice of the meetings or workshop and an agenda. The notice and agenda shall be available to the public in the offices of the District Manager at least seven (7) days before each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting.

(3) Receipt of Notice. Persons wishing to receive, by mail, notices or agendas of meetings, may advise the District Manager or secretary at the District's office. Such persons shall furnish a mailing address in writing and may be required to pay the cost of copying and mailing.

(4) Emergency Meeting. The chair, or the vice-chair is unavailable, may convene an emergency meeting of the Board without first having complied with Subsections (1), (2), and (3), to act on emergency matters that may affect the public's health, safety, or welfare. Whenever possible, the chair shall make reasonable efforts to notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date, and place of the emergency meeting, the reasons why an emergency meeting was necessary, and a description of the action taken. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(5) Public Comment. The Board shall set aside a reasonable amount of time at each regular meeting for public comment, which time for audience comment shall be identified in the agenda. Persons wishing to address the Board may be required to notify the secretary of the Board prior to the "audience comment" section on the agenda. In its discretion, the Board may limit the length of time available to any one speaker in the interest of time or fairness to other speakers.

(6) Budget Hearing; Budget Amendment. Notice of hearing on the annual budget(s) shall be in accordance with Section 190.008, Florida Statutes. Once

adopted in accord with Section 190.008, Florida Statutes, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.

(7) 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.

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

Law Implemented: 190.007(1), 190.008, 120.525, 120.54, 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, Florida Statutes, and these Rules. If Chapter 120, Florida Statutes, is amended by the Florida Legislature so that the provisions of Chapter 120, Florida Statutes, conflict with these Rules, Chapter 120, Florida Statutes shall control. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District.

(2) Notice of Rule Development. 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 state how a person may promptly obtain a copy of any preliminary draft, if available.

(3) Notice of Proceedings and Proposed Rules. Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; a reference to the specific rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes 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 twenty-one (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 a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared. The notice shall be published in a newspaper of general circulation in the District not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice. 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 District'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 fourteen (14) days prior to such mailing, have made requests of the district for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the 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), Florida Statutes, 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 Section 120.54(7), Florida Statutes, 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) Then 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 - Hearings. 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 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 twenty-one (21) days after notice of intent to adopt, amend, or repeal the rule is published as required by law, in accord with the procedure for submitting requests for public hearing stated in the notice of intent to adopt, amend, or repeal the rule. 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 seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person 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, Florida Statutes.

(12) Variances and Waivers. Variances and waivers from District rules may be granted subject to the provisions and limitations contained in Section 120.542, Florida Statutes.

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 any member of the Board (including the Chair), District Manager, District General Counsel, or other person to conduct the hearing.

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;

5. Make or receive offers of settlement, stipulation, and adjustment.
 - (a) 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.
 - (b) The District shall issue a final order within ninety (90) 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.
- (2) Eminent Domain. After determining the need to exercise the power of eminent domain pursuant to Section 190.011(11), Florida Statutes, the District shall follow those procedures prescribed in Chapters 73 and 74, Florida Statutes. 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(15), Fla. Stat.

Law Implemented: 190.011(11), Fla. Stat.

1.7 PROCEDURE UNDER CONSULTANTS' 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 described in these procedures and in the negotiation of such contracts.

(1) Definitions.

(a) "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 any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.

(b) "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 of other measures.

(c) A "continuing contract" is a contract for professional services (of a type described above), entered into in accord 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.

(d) "Emergency purchase" is a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business) where the Board decided the delay incident to competitive bidding would be detrimental to the interests of the District.

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

(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 prequalification 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.

(3) 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 the method for interested consultants to apply for consideration. The notice shall appear in at least one 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 annually submit statements of qualifications and performance date. Persons who provide their name and address to the District office 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.

(4) 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 qualifications on file. The Board shall conduct discussions with, and may require public presentation by firms regarding their qualifications, to 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.

(b) 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.

(c) If the selection process is administered by any 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.

(5) Competitive Negotiation.

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

(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 cost."

(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 some in the District office for seven (7) days.

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

(7) 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.

(8) Statute Controls. If the Consultants' Competitive Negotiations Act is amended by the Florida Legislature after the adoption of these Rules, such that the Consultants' Competitive Negotiations Act is conflicts with these Rules, then the effective Consultants' Competitive Negotiations Act, as amended, shall control.

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

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

1.8 PURCHASE OF GOODS, SUPPLIES, OR MATERIALS.

(1) 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 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 services.

(2) Definitions.

- (a) "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.
- (b) "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.
- (c) "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.
- (d) "Lowest responsible bid/proposal" means, in the sole discretion of the Board, the bid or proposal (i) 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 variances 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.

- (e) "Goods, supplies, and materials" do not include printing, insurance, advertising, or legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.
 - (f) "Purchase" means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale or exchange of goods, supplies, or materials between the District and any federal, state, regional, or local governmental entity or political subdivision of the state.
 - (g) "Emergency purchase" means a purchase necessitated by a sudden unexpected turn of events (e.g. acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive bidding would be detrimental to the interests of the District.
- (3) 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 be prepared 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 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 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.
 - (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 accord with the invitation or request and these Rules.

- (e) The Lowest Responsive and Responsible 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 it is in the best interests of the District. 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. 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 some 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 for goods, supplies, or materials. 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 goods, supplies, or materials.
- (h) The District may make an emergency purchase without complying with these Rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

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

Law Implemented: 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 work 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, Section 255.20, Florida

Statutes, 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 Proposals 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 calculated to cost more than \$500,000 must be noticed at least thirty (30) days prior to the date for submittal of bids.
- (b) The District may maintain list 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) To be eligible to submit a bid or proposal, a firm or individual must, at the time of receipt of its bid or proposal:
 - 1. Hold all required applicable state professional licenses in good standing.
 - 2. The past performance of each bidder or proposer to meet time and budget requirements.
 - 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 projected 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 a bidder or proposer is a certified minority business enterprise.

- (g) The Lowest Responsive and Responsible 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 the best interest of the District. The Board may require bidders to furnish performance and/or other bonds with a responsible surety to be approved by the Board. If the Board receives fewer than three (3) responses to an Invitation to Bid or Request for Proposal, the Board, may, in its discretion, re-advertise for additional bids without rejecting any submitted bid. 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 not receiving a contract award shall not be entitled to recover any costs of bid 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 by United States Mail, by hand delivery, or by overnight delivery service, and by posting the same in the District office for seven (7) days.

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

Law Implemented: 190.033; 255.0525, Fla. Stat.

1.10 CONTRACTS FOR MAINTENANCE SERVICES.

(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 indexed or 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 contractual services and/or goods, supplies, or materials as defined in these Rules. Where a contract for maintenance of such a facility or project includes goods, supplies, or materials and/or contractual 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 for goods, supplies, or materials, and contractual 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 professional license 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 prequalification 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 lowest responsive and responsible 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 lowest responsive and responsible bidder, the District Representative may consider, in addition to factors described in the Invitation to Bid or Request for Proposal, 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 requirement.
4. The geographic location of each bidder or proposer's headquarters or office in relation to the project.
5. The recent, current, and projected 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 a bidder or proposer is a certified minority business enterprise.
 - (g) The lowest responsive and responsible bid/proposer 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 proposer to furnish performance and/or other bonds with a responsible surety. If the Board may, in its discretion, re-advertise for additional bids or proposals 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, all bids/proposals may be rejected. Bidders or proposer not receiving a contract award shall not be entitled to recover any costs of bid/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 by United States Mail, by hand delivery, or by overnight delivery service, and by posting the same in the District office for seven (7) days.

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

Law Implemented: 190.033, Fla. Stat.

1.11 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 contract is in the best interest of the District. When letting a design/build contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a design criteria professional meeting the requirements of Section 287.055 (2)(k) 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 Rule 1.7, Procedure under Consultants' 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 of the firms.

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

(d) After a design criteria package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited, pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The

notice shall allow at least 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 qualification information, including: capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business 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);
 - (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.
 - (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, and 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 that the board determines is fair, competitive, and reasonable. Should the board be unable to negotiate a satisfactory contract with the firm considered 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 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 drawing 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.

(3) 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: 190.011(5), Fla. Stat.

Law Implemented: 190.033, 255.20, Fla. Stat.

1.12 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 expense insurance for the dependents of such officers and employees upon a group insurance plan by the District, shall be governed by these Rules. Nothing in these Rules 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 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 person's interest 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 on the Invitation to Bid.
- (e) If only one 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 accord with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, past performance for 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, or by overnight delivery service, and by posing the same in the District office for seven (7) days.

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

Law Implemented: 112.08, Fla. Stat.

1.13 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 under Sections 1.7 or 1.11 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, by hand delivery, or by overnight delivery service, and by posing 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 Rule 1.14 of the Rules of the Center Farms Community Development District shall constitute a waiver of proceedings under those Rules."

(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 within seventy-two (72) hours after the posing 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 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 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 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's 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 (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: 120.57(3), 190.011(5), Fla. Stat.

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

1.14 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 this Section 1.14.

(1) Notice. The District shall give all bidders or proposers written notice of a decision to award (or 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 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 adversely affected 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 the date of timely filing the initial notice of protest. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred 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 solicitation or contract award process until the protest is resolved in accord with these Rules.

However, if the District determines particular facts and circumstances require the continuance of the contract award process without delay in order to avoid an immediate and serious danger to the public's 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 persons 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 proceedings process provided above (if available), the District shall schedule a formal hearing to resolve the protest in accordance with the procedural guidelines set forth in Section 1.7(1).

Specific Authority: 120.53(5), 190.011(5), Fla. Stat.

Law Implemented: 190.033, Fla. Stat.

1.15 BID PROTESTS RELATING TO ANY OTHER AWARD.

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 under Sections 1.8, 1.9, or 1.10 shall be in accordance with this Section 1.15.

(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, by hand delivery, or by overnight delivery service, and by posting same in the District office for seven (7) 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 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's 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: 190.011(5), Fla. Stat.

Law Implemented: 190.033, Fla. Stat.

1.16 EFFECTIVE DATE.

These Rules shall be effective **June 9, 2006** except that no election of officers required by these Rules shall be required until after the next regular election for the Board of Supervisors.