

**BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT
BOARD OF SUPERVISORS
SPECIAL ORGANIZATIONAL MEETING
MARCH 26, 2020**

BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT AGENDA
THURSDAY, MARCH 26, 2020
2:00 P.M.

The Offices of Meritus
Located at 2005 Pan Am Circle, Suite 300, Tampa, FL 33607

District Board of Supervisors	Supervisor Supervisor Supervisor Supervisor Supervisor	Jeff Hills Nick Dister Steve Luce Ryan Motko Alberto Viera
District Manager	Meritus	Brian Lamb
District Attorney	Straley Robin Vericker	John Vericker
District Engineer	Stantec, Inc	Tonja Stewart

All cellular phones and pagers must be turned off while in the meeting room

The District Agenda is comprised of four different sections:

The meeting will begin at **2:00 p.m.**

Public workshops sessions may be advertised and held in an effort to provide informational services. These sessions allow staff or consultants to discuss a policy or business matter in a more informal manner and allow for lengthy presentations prior to scheduling the item for approval. Typically, no motions or votes are made during these sessions.

Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the District Office at (813) 873-7300, at least 48 hours before the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 7-1-1 who can aid you in contacting the District Office.

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

March 26, 2020
Board of Supervisors
Berry Bay Community Development District

Dear Board Members:

The Special Organizational Meeting of Berry Bay Community Development District will be held on **March 26, 2020 at 4:00 p.m.** at the Offices of Meritus located at 2005 Pan Am Circle, Suite 300, Tampa, FL 33607. Following is the Agenda for the Meeting:

Call In Number: 1-866-906-9330

Access Code: 4863181

- 1. CALL TO ORDER**
 - A. Overview of Meeting Procedures and Decorum
- 2. PUBLIC COMMENT PERIOD**
- 3. ADMINISTER OATHS OF OFFICE TO BOARD ASSIGNED IN PETITION**
- 4. SEAT NEW BOARD MEMBERS**
 - A. Overview of Forms, Sunshine Amendment, Code of Ethics, Supervisor Responsibilities
- 5. APPOINTMENT OF OFFICERS – Resolution 2020-01 Tab 01**
 - A. Chairman
 - B. Vice Chairman
 - C. Secretary
 - D. Treasurer
 - E. Assistant Secretaries
- 6. APPOINTMENT OF CONSULTANTS**
 - A. Consider Appointment of District Manager/Assessment Consultant – **Resolution 2020-02 Tab 02**
 - B. Designation of Registered Agent/Office – **Resolution 2020-03 Tab 03**
 - C. Consider Appointment of District General Counsel – **Resolution 2020-04..... Tab 04**
 - D. Consider Appointment of Interim District Engineer – **By Motion**
 - i. Authorize RFQ for District Engineer
 - E. Consider Appointment of Bond Counsel – **Akerman LLP Tab 05**
 - F. Consider Appointment of Investment Banker – **FMS Bonds Tab 06**
 - G. Consider Appointment of Trustee – **US Bank Tab 07**
- 7. BUSINESS MATTERS**
 - A. Consider Authorizing Notice of Establishment-**Resolution 2020-05 Tab 08**
 - B. Consider Policy of Compensation for Board Members – **Resolution 2020-06..... Tab 09**
 - C. Consider Policy of Reimbursement of District Travel Expenses – **Resolution 2020-07 Tab 10**
 - D. Consider Designation of Primary Administrative Office and Local Records Office – **Resolution 2020-08..... Tab 11**
 - E. Consider District Records Retention Schedule – **Resolution 2020-09 Tab 12**
 - F. Consider Fiscal Year 2020 Regular Meeting Schedule and Location-**Resolution 2020-10.. Tab 13**
 - G. Consider Landowners’ Meeting Date, Time and Location- **Resolution 2020-11 Tab 14**
 - H. Consider Proposed FY2019/2020 Annual Budget & Set Public Hearing – **Resolution 2020-12..... Tab 15**
 - I. Set Public Hearing for Uniform Method of Collections – **Resolution 2020-13..... Tab 16**
 - J. Consider Rules of Procedure & Setting Public Hearing - **Resolution 2020-14 Tab 17**
 - K. Consider Policy Re: Support & Legal Defense for Board & Staff- **Resolution 2020-15 Tab 18**
 - L. Authorization to obtain General Liability and Public Officers Insurance-**By Motion**
 - M. Consider Designation of a Qualified Public Depository- **Resolution 2020-16..... Tab 19**
 - N. Authorization of Signatories- **Resolution 2020-17 Tab 20**
 - O. Authorization to Disburse Funds for Expenses- **Resolution 2020-18..... Tab 21**
 - P. Consider Adoption of Investment Policy- **Resolution 2020-19 Tab 22**
 - Q. Consider Approval of Florida Statewide Mutual Aid Agreement- **Resolution 2020-20 Tab 23**

R. Consider Provisions for Public Comments – Resolution 2020-21	Tab 24
S. Consider Authorization of RFP for Auditing Services - By Motion	
8. PRELIMINARY REPORT PRESENTATION – ASSESSMENT BONDS	
A. Consider Report of District Engineer	Tab 25
B. Consider Master Assessment Methodology Report.....	Tab 26
C. Authorizing Issuance of Bonds/Filing of Validation Complaint - Resolution 2020-22	Tab 27
i. Master Trust Indenture	
D. Consider Declaring Special Assessments – Resolution 2020-23	Tab 28
E. Consider Setting Public Hearing for Special Assessments – Resolution 2020-24	Tab 29
F. Consider Authorization of Chairman to Accept or Execute Certain Documents Resolution 2020-25	Tab 30
G. Other Matters Relating to Financing	
9. ADMINISTRATIVE MATTERS	
A. Consideration of ADA Website Compliance.....	Tab 31
B. Request for Working Capital – By Motion	
10. STAFF REPORTS	
A. District Counsel	
B. District Manager	
C. District Engineer	
11. BOARD MEMBERS COMMENTS	
12. PUBLIC COMMENTS	
13. ADJOURNMENT	

We look forward to seeing you at the meeting. In the meantime, if you have any questions, please do not hesitate to call us at (813) 873-7300.

Sincerely,



Brian Lamb, CEO
Meritus

RESOLUTION 2020-01

**A RESOLUTION OF THE BOARD OF SUPERVISORS
DESIGNATING THE OFFICERS OF BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT AND
PROVIDING FOR AN EFFECTIVE DATE.**

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

WHEREAS, the initial supervisors have taken and subscribed to the oath of office per F.S. 190.006(4); and

WHEREAS, the Board of Supervisors (hereinafter the “Board”) now desires to organize by designating the Officers of the District per F.S. 190.006(6).

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

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

_____	Chairman
_____	Vice-Chairman
<u>Brian Lamb</u>	Secretary
<u>Eric Davidson</u>	Treasurer
<u>Brian Howell</u>	Assistant Secretary
_____	Assistant Secretary
_____	Assistant Secretary
_____	Assistant Secretary

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

PASSED AND ADOPTED THIS 26th DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Secretary / Assistant Secretary

Chairman

RESOLUTION 2020-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT APPOINTING AND FIXING THE COMPENSATION OF THE DISTRICT MANAGER AND ASSESSMENT CONSULTANT; AND PROVIDING AN EFFECTIVE DATE

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

WHEREAS, the Board of Supervisors of the District (“Board”) must employ and fix compensation of a “District Manager;” and

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

WHEREAS, the Board has determined that the appointment of a District Manager and Assessment Consultant is necessary, appropriate and in the District’s best interests; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

1. **APPROVAL OF MANAGEMENT AGREEMENT.** District Management Services, LLC d/b/a Meritus is appointed as District Manager, and Assessment Consultant, and shall be compensated for their services in such capacity in the manner prescribed in the agreement incorporated herein by reference as **Exhibit A**.

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

3. **PASSED AND ADOPTED THIS 26th DAY OF MARCH, 2020.**

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

Exhibit A: District Manager Fee Agreement

**AGREEMENT BETWEEN
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
AND MERITUS DISTRICTS
FOR MANAGEMENT AND ACCOUNTING SERVICES**

THIS AGREEMENT, is made and entered into as of the 26th day of March, 2020, by and between the BERRY BAY COMMUNITY DEVELOPMENT DISTRICT, (the "**District**"), whose mailing address is 2005 Pan Am Circle Suite 300, Tampa, Florida 33607 and the firm of District Management Services, LLC, d/b/a Meritus Districts, (the "**Manager**"), whose mailing address is 2005 Pan Am Circle Suite 300, Tampa, Florida 33607.

WITNESSETH:

WHEREAS, the District desires to employ the services of the Manager for the purpose of providing non-exclusive management, accounting and miscellaneous services for the BERRY BAY COMMUNITY DEVELOPMENT DISTRICT names required to meet the needs of the District during the contract period; and

WHEREAS, the Manager desires to assist the District with such matters.

NOW, THEREFORE, in consideration of the mutual covenants and agreements expressed herein the parties agree as follows:

1. The District hereby engages the Manager for the services described in **Exhibit "A"** attached hereto and incorporated by reference herein (the "**Scope of Services**").
2. The District agrees to compensate the Manager in accordance with the fee schedule set forth in **Exhibit "B"** attached hereto and incorporated by reference herein (the "**Fee Schedule**"), which amount shall be payable in equal monthly installments no later than the last day of each month for which the services are provided, and may be amended annually as evidenced by the budget approved by the Board of Supervisors of the District (the "**Board**"). The total and cumulative amount of this Agreement shall not exceed the amount of funds annually budgeted for these services. In addition, the District agrees to compensate the Manager for reasonable, reimbursable expenses incurred during the course of performance of this Agreement, including, but not limited to, out-of-pocket expenses for travel, express mail, computerized research, word processing charges, long distance telephone, postage, photocopying, courier, and computer services as outlined within the Fee Schedule. The fees for the first and last month services under this agreement shall be pro-rated based upon the number of days in which the Manager provided services during that month.
3. Subject to the provisions for termination as set forth below, the term of this Agreement shall begin on the 26th of March, 2020. This agreement shall be automatically renewable each Fiscal Year of the District (October 1 – September 30), unless otherwise terminated by either party. The Agreement may be terminated as follows:
 - a. Upon written notice by the District for "good cause" which shall include misfeasance, malfeasance, nonfeasance or dereliction of duties by Manager, unless Paragraph "C" of this section applies; or
 - b. Upon the dissolution or court-declared invalidity of the District; or

- c. By either party, for any reason, upon sixty (60) days written notice provided; however, should this Agreement be terminated, Manager will take all reasonable and necessary actions to transfer all the books and records of the District in his possession in an orderly fashion to the District or its designee.
4. The Manager shall devote such time as is necessary to complete the duties and responsibilities assigned to the Manager under this Agreement.
5. The Manager shall indemnify and hold harmless the District from and against any and all liabilities, claims, losses, actions, damages, judgments, costs and expenses of whatever nature, including counsel fees and costs, incurred by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of any property, violations of law, or otherwise in connection with: (i) the acts or omissions of the Manager or its related parties relating in any way to the performance or nonperformance, as the case may be, of the services in connection with the Agreement or (ii) the failure by the Manager to comply with the requirements or provisions of the Agreement.
6. Prior to commencing the services under this Agreement, at all times during the term of this Agreement, the Manager shall maintain in full force and effect, at the Manager's expense, the following insurance: (i) Workers' Compensation insurance as required by applicable law, (ii) Commercial General Liability insurance, including personal injury, with limits not less than one million dollars (\$1,000,000) per occurrence, and (iii) Errors and Omissions insurance with limits not less than two million dollars (\$2,000,000). Manager shall require the insurers to give the District at least thirty (30) days prior written notice of modification or cancellation, and shall provide that the District be named as "a named additional insured". Upon execution of this Agreement, and thereafter from time to time upon request by the District, Manager shall provide the District with a certificate evidencing such insurance.
7. The signature on this Agreement by the Manager shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in the Agreement are accurate, complete and current as of the date of this Agreement.
8. The Manager represents that it presently has no interest and shall acquire no interest either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in the standard set forth in Section 112.311, Florida Statutes. The Manager further represents that no person having any interest shall be employed for said performance.
9. The Manager shall promptly notify the District in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Manager's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Manager may undertake and request an opinion of the District as to whether the association, interest or circumstance would, in the opinion of the District, constitute a conflict of interest if entered into by the Manager. The District agrees to notify the Manager of its opinion by certified mail within thirty (30) days of receipt of notification by the Manager. If, in the opinion of the District, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Manager, the District shall so state

in its opinion and the association, interest, or circumstance shall not be deemed in conflict of interest with respect to services provided to the District by the Manager under the terms of this Agreement. This Agreement does not prohibit the Manager from performing services for any other special purpose-taxing district, and such Assignment shall not constitute a conflict of interest under this Agreement.

10. The Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Manager to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Manager any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.
11. The Manager warrants and represents that all of its employees are treated equally during employment without regard to race, color, physical handicap, religion, sex, age or national origin.
12. The Manager hereby represents and warrants that it has and will continue to conduct its business activities in a professional manner and that all services shall be performed by skilled and competent personnel to the highest professional standards.
13. The District acknowledges that the Manager is not an attorney and may not render legal advice or opinions. Although the Manager may participate in the accumulation of information necessary for use in documents required by the District in order to finalize any particular matters, such information shall be verified by the District as to its correctness provided, however, that the District shall not be required to verify the correctness of any information originated by the Manager or the correctness of any information originated by the Manager which the Manager has used to formulate its opinions and advice given to the District.
14. Meritus Districts does not represent the District as a Municipal Advisor or Securities Broker nor is Meritus Districts registered to provide such services as described in Section 15B of the Securities and Exchange Act of 1934, as amended. Similarly, Meritus Districts does not provide the District with financial advisory services or offer investment advice in any form.
15. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Hillsborough County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

16. All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the District shall be mailed to the following parties:

**District Management Services, LLC,
D/b/a Meritus Districts
2005 PAN AM CIRCLE SUITE 300
TAMPA, FLORIDA 33607
ATTENTION: BRIAN K. LAMB**

And

**BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
2005 PAN AM CIRCLE SUITE 300
TAMPA, FLORIDA 33607
ATTENTION: BRIAN K. LAMB**

with a copy to:

17. The foregoing terms and conditions constitute the entire Agreement between the parties hereto and any representation not contained herein shall be null and void and no force and effect. Further this Agreement may be amended only in writing upon mutual consent of the parties hereto. This Agreement supersedes and replaces all previous agreements between the Manager and the District
18. No amendments and/or modifications of this Agreement shall be valid unless in writing and signed by each of the parties. The District will consider price adjustments each twelve (12) month period to compensate for market conditions and the anticipated type and amount of work to be performed during the next twelve (12) month period. Such evidence of price adjustments will be approved by the District in its adopted Fiscal Year Budget.

(Intentionally left blank)

IN WITNESS WHEREOF, the Board of Supervisors of the BERRY BAY COMMUNITY DEVELOPMENT DISTRICT has made and executed this Contract on behalf of the District and the Manager have each, respectively, by an authorized person or agent, hereunder set their hands and seals on the date and year first above written.

**BOARD OF SUPERVISORS
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT**

Signature

Date

_____, Chairman
(Print Name)

Signed and Sealed in the presence of:

Signature

Signature

(Print Name)

(Print Name)

**DISTRICT MANAGEMENT SERVICES, LLC
D/b/a MERITUS DISTRICTS**

Signature

Date

_____, Manager
(Print Name)

Signature

Signature

(Print Name)

(Print Name)

Exhibit "A"

Scope of Services

A. Management Services

1. District Management Services - District Management Services to be provided to the CDD shall include the following:

- Attending all meetings of the Board of Supervisors ("Board") and provide the Board with meaningful dialogue of the issues before the Board for action.
- Prepare and mail all board agendas and/or meeting books in advance of the meetings.
- Identification of significant policies, including analysis of policy implementation with administrative and financial impact statement and effect on the District.
- Preparation of District Budget.
- Implementation of budget directives.
- Preparation of specifications and coordination for the following services:
 - i. Insurance, General Liability along with Directors and Officers Liability
 - ii. Independent Auditor Services
 - iii. Such other services as may be identified from time to time
- Provide all required annual disclosure information to the local government in the County in which the District resides:
 - i. Public Facilities Report
 - ii. Designation of Registered Office and Registered Agent
 - iii. Public Meeting Schedule
 - iv. Audited Financial Statement
- Ensure compliance with the following statutory requirements:
 - i. Facilitate, provide workspace and all documentation needed for Annual Financial Audit
 - ii. Annual Financial Report
 - iii. Public Depositor Report
 - iv. Proposed Budget
 - v. Maintain and coordinate with District Engineer and Counsel for the compilation of District Map and Amendments
 - vi. Public Facilities Report
 - vii. Registered Office and Registered Agent
 - viii. Regular Public Meeting Schedule
 - ix. Provide Oath of Office and notary public for all newly elected members of the Board
 - x. Update District reporting requirements as the legislature periodically updates reporting requirements

2. Administrative Services - Recording Secretary Services to be provided to the District shall include the following:

- Prepare all Board Agendas and coordinate receipt of sufficient material for Board of Supervisors to make informed policy decisions
- Prepare and advertise all notices of meetings in an authorized newspaper of general circulation in the County in which the District is located
- Record and prepare minutes of all meetings of the Board of Supervisors including regular meetings, special meetings, workshops and public hearings
- Record meetings of the Board to maintain an accurate public record
- Maintain minutes and resolutions in perpetuity for the District and send to the appropriate governmental agencies in accordance with Florida Law
- Maintain District Seal
- Postage and Reproduction
- Printing and Binding of documents
- Satisfying public records requests in a timely manner

3. Website Development/Maintenance

- Home Page - News, Events and a brief introduction explaining different municipal and non-profit entities (Homeowners Association) involved within the community and its operations.
- Government – Information listing State, County and City (if applicable) involvement with contact information/links.
- Community Development District – Levels of service explanations, responsibilities, budget, monthly agenda /minutes and contact information retroactive from the beginning of the current fiscal year.
- Homeowner Association - Information listing explanation, responsibilities, and contact information (as provided by the current HOA Manager).
- Community Events - View events listed on a community calendar.
- Maintain BERRY BAY COMMUNITY DEVELOPMENT DISTRICT calendar and post all CDD meetings in advance of the meeting date.
- Post monthly meeting books on the District website, which will include proposed meeting minutes.
- Post final meeting minutes on the District website within 30 days of approval by the Board
- Ensure ADA Website Requirements according to Web Content Accessibility Guidelines.
- Contact CDD Representatives - Submit an inquiry via web e-mail form to designated personnel.

4. Personnel Management Services

- Maintain and update job descriptions for all staff positions
- Provide administrative support for the hiring and management of employees to include obtaining background checks and drug tests, managing employee benefits, maintaining current personnel manual and delivery of payroll checks and insuring all payroll taxes, reports and employee forms are submitted or delivered on time.
- Mediate Employee disputes
- Hiring of key employee staff with input and/or approval from the Board as desired.
- District Manager will conduct an annual review of all supervisory personnel
- District Manager will conduct monthly staff meeting to provide consulting and over-site of resident services and operations.

5. Facilities Management

- Protect and monitor the maintenance and repair of District facilities to include; all structures, improvements and facilities on District land including landscaping, drainage, wetlands, clubhouse and amenities.
- Maintain a task list to insure the prompt and complete resolution of repairs, improvements and significant issues as identified by DMS and/or approved or directed by the Board of Supervisors.
- Develop, maintain and update a Reserve for Repair and Replacement Schedule to identify, plan and fund major capital repairs or replacements as needed. Include annual review and adjustment of the schedule in annual budget presentation.
- Solicit proposals and/or bids, provide analyses for the Board and oversee all projects which are identified on the Repair and Replacement Schedule or over \$5,000.00 in value.
- Create and maintain site maps and log explaining location of District facilities and insurance information.
- Provide on-call services for emergencies.

6. Field Services

- Monitor all Landscaping, Irrigation, Wetland and Pond Maintenance Contracts for compliance issues and meet with vendors on-site to resolve failures or disputes raised or identified.
- Provide in-house expertise to provide vendor and staff oversight as it pertains to the maintenance of the District's landscaping, aquatics, and facilities.
- Within the first 30 days of the Agreement, evaluate the performance of all existing operational vendors, the scopes of services under which maintenance is currently conducted, and provide the Board with a report and recommendations.

- Develop and manage Requests for Proposals to include attendance at pre-bid meetings, bid openings and evaluation and recommendations to the Board.
- The Operations Manager will personally conduct monthly inspections of all landscaping, facilities and staff and provide reports to the Board.
- Once per month, the Operations Manager will conduct a walk-through with each major vendor. At a minimum, these vendors shall include the landscape maintenance vendor, aquatics vendor, pool maintenance vendor, and any other vendor as requested by the Board.
- All tasks and directives to the District's vendors shall be tracked and updated through an action item database specifically tailored to the District's needs.
- The Field Operations Inspector shall conduct community inspections on a minimum of once a month and work with the site employee to develop skills necessary to oversee pool maintenance, access card maintenance and contract compliance. The purpose of the inspections is to identify any community deficiencies, be available to assist the District's employees in their daily tasks, report on vendor progress, and communicate community status and issues to the Operations Manager.
- Schedule and meet with residents and the appropriate staff members and/or vendors to provide direction, assistance and or recommendations as appropriate in response to requests for information or assistance.
- Provide warning letters, cease and desist notices, and other appropriate communication in response to violations of rules and policies relating to conservation lands and applicable Water Management District compliance issues and community rule violations.
- Oversee the process of enforcement of parking rules and other directives as identified by the Board of Supervisors relating to the parks and other District lands.
- Schedule tasks for ongoing maintenance or repair of District lands and facilities and verify completion or progress. Use web-based task management program and keep current.
- Develop proposals and suggestions for improvements to the efficiency and/or quality of maintenance programs.
- Provide a monthly update to the District Manager for inclusion in his management report to the Board.

7. Miscellaneous Services - Miscellaneous Services provided to the District shall include the following:

- Rentals and Leases - Storage and control of public records

B. Financial Services

1. Accounting - Accounting Services to be provided to the District shall include the following:

- Prepare a Budget that achieves maximum cost-to-benefit equity for approval
- Submit a Preliminary Budget to Board in accordance with Chapter 190, Florida Statutes
- Modify Preliminary Budget for consideration by Board at the District's advertised Public Hearing
- Prepare a Budget and Assessment Resolutions as required by Chapter 190, Florida Statutes
- Establish Budget Public Hearing(s) and dates
- Establish Board workshop dates (if required)
- Coordinate Budget preparation with District Board, Engineer and Attorney
- Prepare Budget Resolution approving the District Manager's Budget and authorization to set public hearing
- Prepare Budget Resolution adopting the District Manager's Budget, as modified by the Board
- Prepare Assessment Resolution levying the assessments on the property in the District and assessment rolls, unless the preparation of the assessment rolls is separately contracted out by the District
- Prepare and maintain a property database by using information obtained by local Property Appraiser secured roll
- Review and compare information received from the Property Appraiser to prior years' rolls, to ensure that the District rolls are in compliance with the law and all pertinent information is reviewed to prepare accurate assessments
- Periodically update the database for all activity such as transfer of title, payment of annual assessment, prepayment of principal
- Act as the primary contact to answer Property Owner questions regarding special assessments, tax, bills, etc.
- Provide payoff information to Property Owner upon request

- Upon adoption of the budget and assessments, coordinate with the office of the Property Appraiser and Tax Collector to ensure correct application of assessments and receipt of District funds
- Attend workshop(s) and public hearing(s) and be available to answer questions by the Board and the public.
- Prepare and coordinate applications for:
 - i. Federal I.D. Number
 - ii. Tax Exemption Certificate
- Establish and maintain Government Fund Accounting System in accordance with the Uniform Accounting System prescribed by Department of Banking and Finance for Government Accounting, Generally Accepted Accounting Principles (GAAP) and Government Accounting Standards Board (GASB)
- Prepare Required trust
- Policies and Procedures pursuant to Chapter 218, Florida Statutes
- Prepare Annual Financial Report for Units of Local Government and Distribution to the State Comptroller
- Prepare Public Depositor's Report and distribution to State Treasurer
- Coordinate and Distribute Annual Public Facilities Report and distribution to appropriate agencies
- Administer purchase order system and periodic payment of invoices
- Coordinate tax collection and miscellaneous receivables
- Prepare bid specifications for the purchase of services and commodities pursuant to Florida Statutes
- Prepare all required schedules for year-end audit
- Prepare schedule of Bank Reconciliations
- Prepare cash and Investment Confirmations for distribution to Authorized Public Depositories and Trustee of District Bond Issues
- Prepare analysis of Accounts Receivable
- Prepare schedule of Inter-Fund Accounts
- Prepare schedule of Payables from the Governments
- Prepare schedule of all Prepaid Expenses
- Prepare debt Confirmation Schedules
- Prepare schedule of Accounts Payable
- Prepare schedule of Changes in Fund Balances
- Prepare schedule of Assessment Revenue compared to Budget
- Prepare schedule of Interest Income and provide Reasonableness Test
- Prepare schedule of Investments and Accrued Interest
- Prepare analysis of All Other Revenue
- Prepare analysis of Interest expenses and Calculate Accrued Interest Expense at Year End
- Prepare schedule of Operating Transfers
- Prepare schedule of Cash Receipts and Cash Disbursements
- Prepare analysis of Cost of Development and Construction in Progress
- Prepare analysis of Reserves for Encumbrances
- Prepare analysis of Retainage Payable
- Prepare Amortization and Depreciation Schedules
- Prepare General Fixed Asset and General Long-Term Debt Account Groups
- General Fixed Asset Accounting
- Assets constructed by or donated to the District for maintenance
- Prepare inventory of District property in accordance with the Rules of the Auditor General
- Application of the special assessment allocation methodology and required modifications due to such items as: 1) changes in land uses or densities, 2) re-configured parcels, or 3) platting of lots
- Update special assessments pursuant to the requirements of a true-up mechanism outlined in the special assessment allocation methodology
- Assist in the levy and collection of special assessments and operation and maintenance assessments
- Preparation and certification of the annual non-ad valorem capital and operation and maintenance assessment roll
- Financial or cash flow analysis

Exhibit “B”

Fee Schedule

Our philosophy with respect to our District Management Service fee is to provide the lowest “all-inclusive” cost for our clients. The fees below represent a flat fee. There will be no additional charges related to production, fax, telephone and travel, within the Scope of Services. This ensures our clients’ fee expectations are met efficiently and within budget. We can ensure our ability to meet this objective through the utilization of modern technology and our firm’s available resources and commitment to provide the highest level of service. The fees assessed by District Management Services, LLC d/b/a Meritus District (“Manager”) for service is separated based on the needs of the District, determined by development and operational needs.

"All-Inclusive Fees"		
Administrative, Management, and Accounting Services		
	Monthly	Annually
Pre-Development/Operational State ¹	\$1,000	\$12,000
Development/Operational State ¹	\$3,000	\$36,000
Operational State		
Postponed Activity State 2	\$1,000	\$12,000
Residential Services 1-Standard Operations (per unit) ³	\$1.66	\$20.00
Residential Services 2-Recreational Amenity Center (per unit) ⁴	\$0.42	\$5.00

NOTATIONS

¹ The Pre-Development/Operational State is defined as the period “beginning with the establishment of the District through the time when the District enters into an agreement to construct District infrastructure improvements, or completes an acquisition of District infrastructure improvements, whether with bond proceeds or otherwise.” Development/Operational State is defined when the District enters into the above referenced contracts. Not to exceed 12 meetings per fiscal year, and not to exceed 2 hours per meeting.

² The Postponed Activity State is defined as an extended period (beyond 60 days) of inactivity of development/operational activities (i.e., active pursuit of finance, funding site development contracts or infrastructure maintenance contracts). Not to exceed 3 meetings per fiscal year, or 2 hours per meeting.

³ Residential Services 1 – Additional Management/Accounting Services will be required on a graduated basis as the District’s residential population increases. The services required will be adjusted on a graduated per unit basis determined annually and relate directly to the need for customer support services, assessment roll services, Community Development District educational services and on-site visit availability. This fee will be billed monthly as part of the Management Fee for the ensuing fiscal year, based on the most current property appraiser’s records, available no later than June 30th. As the residential community increases, fees are subject to evaluation for competitiveness.

⁴ Residential Services 2 – Additional Management/Accounting Services assessed in the event that a Recreational Amenity Center is constructed and operated as part of the District’s Capital Improvement Program and Operations. This fee does not include staffing of the facility and pertains to the operations aspect alone and accounts for additional services required providing accounting, planning and supervisory services. As the residential community increases, fees are subject to evaluation for competitiveness.

⁵ As part of the development part of the state the District Manager will coordinate with the selected Qualified Public Depository and its Investment Officer to insure available funds that are consistent with the District Investment policy or as otherwise directed by the Board.

ADDITIONAL FEE SCHEDULE

The following is the Manager's Additional Fee Schedule based on an all-inclusive service fee anticipating travel, printing, production, phone and fax.

Financial Services:

\$2,500 – Bond Validation Report*
\$27,500 –Master/Assessment Report
\$7,500 - Refunding Report
\$3,500 – Bond Issue Administrative Fee
\$3,500 – Initial Collection Logs
\$2,000 – Collection Log Revisions (refunding)
\$150 – Estoppel, per closing
\$175 – Estoppel, per closing unplatted unit
\$750 – Construction accounting, per month
\$300 – Dissemination Services, per month, per issuance
\$175 – Extended, Continued, or Special Meetings per hour
1% - Of Off-Roll assessment collection total

**Costs that are payable from the Cost of Issuance Fund Bond Proceeds, provided however that, in the event the manager provides the following services and the District shall, immediately pay the following costs at the time of termination, subject to any offsets for a termination for "good cause" to Paragraph 3 of this agreement.*

Website Maintenance: \$150.00 Monthly. Provide for the maintenance and update as required by Florida Statue 189.069, as well as adding and removing items regarding community events, policies, procedures, and items of interest to the general public.

Postage & Mailing Fees: Invoiced at cost plus 5%.

Late Fees: Invoices from the Manager to the District, which remain unpaid 30 days or more past the invoice date, will accrue late fees and interest charges. Late fees will be assessed each month at \$30.00. Interest will accrue at 1.5% per month on the unpaid balance.

Additional Hourly Services: Services as requested, detailed and approved by the Board of Supervisors, in a "not to exceed" total with an estimated hourly and professional requirement, applicable for requested services outside the standard scope of services.

- True-up Analysis/Report
- Re-financing analysis
- Special Assessment Allocation Report
- Bond Issue Certifications/Closing Documents
- Public Records Request
- Special Information Request
- Continuing Disclosure/Representative/Agent

The fees for the professionals involved shall be billed at the following rates:

District Manager	\$225.00 per hour	Accounting Consultant	\$175.00 per hour
Accountant	\$ 75.00 per hour	Operations Manager	\$ 75.00 per hour
Controller	\$200.00 per hour	Administrative	\$ 45.00 per hour

RESOLUTION 2020-03

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A
REGISTERED AGENT AND REGISTERED OFFICE OF THE DISTRICT,
AND PROVIDING FOR AN EFFECTIVE DATE.**

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

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

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

Section 1. Brian K. Lamb of Meritus is hereby designated as Registered Agent for Berry Bay Community Development District.

Section 2. The District's Registered Office shall be located at 2005 Pan Am Circle, Suite 300, Tampa, FL 33607.

Section 3. In accordance with Section 189.014, Florida Statutes, the District’s Secretary is hereby directed to file certified copies of this resolution with Hillsborough County and the Florida Department of Economic Opportunity.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY
COMMUNITY DEVELOPMENT
DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-04

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
APPOINTING DISTRICT COUNSEL FOR THE DISTRICT,
AUTHORIZING ITS COMPENSATION AND PROVIDING
FOR AN EFFECTIVE DATE.**

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

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

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

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

1. Straley Robin Vericker, is appointed as District Counsel and shall be compensated for their services in such capacity in the manner prescribed in **Exhibit A**.
2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

Chairman

STRALEY ROBIN VERICKER

Attorneys At Law

1510 W. Cleveland St.
Tampa, Florida 33606
Tel: (813) 223-9400
Fax: (813) 223-5043

Writer's Direct Dial: (813) 901-4945
Writer's E-mail: jvericker@srvlegal.com
Website: www.srvlegal.com

March 26, 2020

Via Email and First Class Mail

Berry Bay Community Development District
2005 Pan Am Circle, Suite 300
Tampa, Florida 33607

Attn: Brian Lamb

**Re: Engagement as District Counsel for the Berry Bay Community
Development District**

Dear Brian:

We appreciate the opportunity to serve as general counsel to the Berry Bay Community Development District (the "District"), and intend for this letter to confirm our engagement.

In terms of legal fees for day to day matters unrelated to the District's bond validation and financings, professional services will be provided to the District on an hourly-rate basis, at the rates established from time to time by our firm. Hourly rates for attorneys and paralegals with the firm currently range from \$100/hour to \$355/hour. The District also will be responsible for direct expenses incurred during the representation, such as filing fees, telecopy services, photocopying, and courier services.

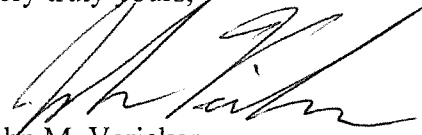
We will provide the District with statements for professional fees and costs, if any, on a monthly basis. Payment will be due when the statement is rendered. We encourage the Board of Supervisors and the District Manager to carefully review the statements each month and call us if you have any questions.

Now that the District is created, the next major step is to file a lawsuit in circuit court to validate the District's proposed bond issue. Legal fees associated with the bond validation, assessment proceedings, and the bond closing are typically set on a fixed fee basis and paid by the District with bond proceeds as a cost-of-issuance expense. Our legal fees associated with the District's initial bond issue will be \$40,500. This will cover the legal fees associated with the bond validation and the other steps that will be necessary in order for the District to issue its initial bonds. In addition, the District will be responsible for direct out-of-pocket expenses

incurred in connection with its bond issuances, including (without limitation) filing fees, photocopying expenses, newspaper publication costs, and courier services.

Please sign and return a copy of this letter for our files. We look forward to continuing to work with you and the Board in connection with this project.

Very truly yours,



John M. Vericker
*Board Certified – City, County & Local
Government Law*

JMV/lab

AGREED TO AND APPROVED THIS _____ DAY OF MARCH, 2020

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

By: _____

Print Name: _____
Chair of the Board of Supervisors



Michael D. Williams

Akerman LLP
420 South Orange Avenue
Suite 1200
Orlando, FL 32801-4904

D: 407 419 8439
T: 407 423 4000
F: 407 843 6610

mike.williams@akerman.com

March 20, 2020

Brian Lamb, District Manager
Berry Bay Community Development District
2005 Pan Am Circle, Suite 300
Tampa, FL 33607

Dear Brian:

Thank you for the opportunity to present this engagement letter to serve as bond counsel to Berry Bay Community Development District (the "District") in connection with the issuance of its special assessment revenue bonds. We understand that the District expects to issue its first series of such bonds in 2020 (the "Bonds"). It is our understanding that the Bonds will be sold through a public offering with FMSbonds, Inc., as the underwriter. The following is our proposal to serve as bond counsel to the District. This letter sets forth generally our understanding of what legal services we will perform and the basis for our compensation to provide such bond counsel services.

As Bond Counsel for the Bonds we agree to:

Attend as requested all meetings related to the issuance of the Bonds.

Prepare appropriate resolutions authorizing the issuance of the Bonds.

Prepare as requested certain documents necessary to the validation of the Bonds and attend the validation hearing.

Prepare the master and supplemental trust indenture, and other documents necessary, related or incidental to the issuance of the Bonds.

Advise as to procedures, required approvals and filings, and other legal matters relative to the issuance of the Bonds.

Prepare (or review when prepared by others) closing papers necessary in connection with the sale and issuance of the Bonds, including but not limited to, certified copies of all minutes, ordinances, resolutions and orders; certificates such as officer's seal, incumbency, signatures, no prior pledge, arbitrage and others; and consents and opinions from accountants, engineers, special consultants and attorneys.

Prepare and file the necessary forms with the Internal Revenue Service (FORM 8038-G) and the Florida Division of Bond Finance.

Prepare and deliver at closing a standard, comprehensive approving legal opinion which will, among other things, contain opinions as to the validity and enforceability of the Bonds and the trust

indenture, the security for the Bonds and the excludability from gross income of the interest on the Bonds for federal income tax purposes (subject to certain exceptions generally accepted in the industry). In rendering the tax opinion, we will provide general instructions for compliance with the federal rebate laws.

We will also deliver a 10(b)(5) opinion regarding certain sections of the offering document for the Bonds describing the Bonds (including the tax status of the interest thereon) and the security therefor.

Supervise and coordinate the closing of the Bonds and render other legal services incidental or required in connection with the matters listed above.


For performing the above-described services in regard to the issuance of the Bonds, we would propose a fee inclusive of costs of \$45,000. All such fees and costs would be payable in full at the time of delivery of the Bonds.

The District has the right to terminate our representation for any reason at any time and assign this agreement to another law firm. We reserve the same right to terminate upon giving reasonable notice. Among the reasons which might lead us to conclude that we should terminate our representation are (1) a failure to be forthright, cooperative or supportive of our effort; (2) the misrepresentation of, or failure or refusal to, disclose material facts to us; (3) the failure or refusal to accept our advice; (4) the discovery of a conflict of interest with another client; or (5) any other reason permitted or required under the rules of professional conduct governing the legal profession. Upon any termination of our representation, we will submit a statement for services rendered and costs incurred to the date of termination, payable in full upon receipt. This statement will be based on the pro rata amount of work done by us to the point of termination to the total work required to be done to close the issue.

We believe that the above provisions outline in reasonable detail our agreement as to this representation. We sincerely appreciate the opportunity to submit this proposal.

Very truly yours,

AKERMAN, LLP


By: Michael D. Williams, Partner

ACCEPTED:

Berry Bay Community Development District

By: _____
Title: _____

fmsbonds
Municipal Bond Specialists

20660 W. Dixie Highway
North Miami Beach, FL 33180

March 19, 2020

Berry Bay Community Development District
c/o Meritus Corporation
2005 Pan Am Circle, Suite # 300
Tampa, Florida 33607
Attn: Mr. Brian Lamb

Re: Agreement for Underwriter Services & G-17 Disclosure

Dear Mr. Lamb:

Thank you for the opportunity to work with the Berry Bay Community Development District (the "District") regarding the underwriting of the District's Special Assessment Bonds, Series 2020 (the "Bonds"). The District and FMSbonds, Inc. ("FMS"), solely in its capacity as Underwriter, agree to the proposed terms set forth herein in Attachment I. By executing this letter both parties agree to the terms set forth herein.

FMS's role is limited to act as Underwriter within the Scope of Services set forth herein as Attachment I, and not as a financial advisor or municipal advisor. FMS is not acting as a municipal advisor for the developer in connection with the subject transaction. Any information that FMS has previously provided was solely for discussion purposes in anticipation of being retained as your underwriter. Attachment II, attached hereto, contains the Municipal Securities Rulemaking Rule Board Rule G-17 Disclosure that the District should read in its entirety and acknowledge by signing below.

We look forward to working with you.

Yours truly,

FMSbonds, Inc.

By: 

Name: Jon Kessler

Title: Executive Director

Agreed to and accepted as of the date first written above:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

By: _____
Name: _____
Title: _____

ATTACHMENT I

Section 1 Scope of Services of FMS: FMS proposes that its duties as Underwriter shall be limited to the following:

1. To provide advice to the District on the structure, timing and terms of the Bonds;
2. To coordinate the financing process;
3. To conduct due diligence;
4. To assist in the preparation of an offering memorandum;
5. To review the assessment methodology and Bond documents;
6. To market and offer Bonds to investors.

Section 2 Terms and Conditions:

1. Underwriter Fee ("Underwriting Fee"). FMS shall act as sole lead underwriter. The Underwriting Fee to FMS for acting as Underwriter shall be 2% of the Par Amount of any Bonds issued. The Underwriting Fee shall be due and payable only upon the closing of the Bonds. The Underwriting Fee may be modified pursuant to a bond delegation or award resolution approved by the Board and consented to by the Underwriter.
2. Price and Interest Rates: The offering price and interest rates are expected to be based on recent comparable transactions in the market, if any. FMS and the District will jointly determine the offering price and interest rates immediately prior to the start of the order period, based on market conditions then prevailing.
3. Bond Purchase Agreement. The obligations of the Underwriter and those of the District would be subject to the satisfactory completion of due diligence and to the customary representations, warranties, covenants, conditions, including provisions respecting its termination contained in the form of a bond purchase agreement FMS will prepare and as generally used in connection with the offering of Bonds for this type of transaction.
4. Costs of Issuance. The District shall be responsible for the payment of all expenses relating to the offering, including but not limited to, attorney fees, consultant fees, costs associated with preparing offering documents, if any, the purchase agreement, regulatory fees and filing fees and expenses for qualification under blue sky laws designated by FMS and approved by the District.
5. Assumptions. The proposed terms and statements of intention set forth in this agreement are based on information currently available to FMS about the District and

the market for special assessment bonds similar to the Bonds and the assumptions that:

- a) the financial condition and history of the project shall be substantially as understood, and the financial information for the relevant and appropriate period ended to be included in the final offering memorandum will not vary materially from those set forth in the material furnished to FMS;
 - b) no adverse developments shall occur which materially and adversely affect the underlying security and financial condition of the district;
 - c) the offering memorandum will comply with all applicable laws and regulations;
 - d) there will not be any unanticipated substantial delays on the part of the District in completing the transaction; and
 - e) all conditions of the Underwriter to purchase Bonds will be included in the bond purchase agreement and conditions shall be satisfied or waived, in the sole discretion of the Underwriter.
6. Information. The District agrees to reasonably and actively assist FMS in achieving an underwriting that is satisfactory to FMS and the District. To assist FMS in the underwriting the District will (a) provide and cause the District's staff and its professionals to provide FMS upon request with all information reasonably deemed necessary by FMS to complete the underwritings, included but not limited to, information and evaluations prepared by the District and its advisors; and (b) otherwise assist FMS in its underwriting efforts.
7. Term of Engagement. The term of this Agreement shall commence as of the date of this Agreement and continue in full force and effect unless terminated by either party. In event of termination by the District without cause, FMS shall be entitled to recover its reasonable out of pocket expenses incurred up to the date of termination.
8. No Commitment. Notwithstanding the foregoing, nothing herein shall constitute an agreement to provide a firm commitment, underwriting or placement or arrangement of any securities by FMS or its affiliates. Any such commitment, placement or arrangement shall only be made a part of an underwriting agreement or purchase agreement at the time of the sale of the bonds.

The engagement contemplated hereby and this agreement are solely for the benefit of the District and FMS and their respective successors, assigns and representatives and no other person or entity shall acquire or have any right under or by virtue hereof.

This Agreement contains the entire understanding of the parties relating to the transactions contemplated hereby and this Agreement supersedes all prior agreements, understandings and negotiations with respect thereto. This Agreement may be executed in counterparts each of which shall be an original but all of such counterparts shall constitute one and the same instrument.

9. No Financial Advisor. FMS's role is limited to that of an Underwriter and not a Financial Advisor or Municipal Advisor

[Remainder of Page Intentionally Left Blank]

ATTACHMENT II

MSRB Rule G-17 Disclosure --- The District has engaged FMS to serve as underwriter, and not as a financial advisor or municipal advisor, in connection with the issuance of the Bonds. As part of our services as underwriter, FMS may provide advice concerning the structure, timing, terms, and other similar matters concerning the issuance of the Bonds. We may also have provided such advice as part of the process of seeking to be selected to serve as your underwriter. Any such advice was provided by FMS as an underwriter and not as your financial advisor in this transaction.

Pursuant to the Notice, we are required by the MSRB to advise you that:

- MSRB Rule G-17 requires an underwriter to deal fairly at all times with both municipal issuers and investors.
- The underwriter's primary role is to purchase the Bonds with a view to distribution in an arm's-length commercial transaction with the Issuer. As such, the underwriter has financial and other interests that differ from those of the Issuer.
- Unlike a municipal advisor, the underwriter does not have a fiduciary duty to the Issuer under the federal securities laws and are, therefore, not required by federal law to act in the best interests of the Issuer without regard to their own financial or other interests.
- The underwriter has a duty to purchase the Bonds from the Issuer at a fair and reasonable price, but must balance that duty with its duty to sell the Bonds to investors at prices that are fair and reasonable.
- As underwriter, we will review the disclosure document for the Bonds in accordance with, and as part of, our responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.¹

The underwriter will be compensated by a fee and/or a fee that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Bonds. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction and the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Bonds. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest since an underwriter may have an incentive to recommend a transaction that is unnecessary or to recommend that the size of a transaction be larger than is necessary. The District acknowledges no such recommendation has been made by FMS.

¹ Under federal securities law, an issuer of securities has the primary responsibility for disclosure to investors. The review of the offering document by the underwriters is solely for purposes of satisfying the underwriters' obligations under the federal securities laws and such review should not be construed by an issuer as a guarantee of the accuracy or completeness of the information in the offering document.

Please note nothing in this letter is an expressed nor an implied commitment by us to provide financing or to purchase or place the Bonds or any other securities. Any such commitment shall only be set forth in a bond purchase agreement or other appropriate form of agreement for the type of transaction undertaken by you.

Further, our participation in the transaction contemplated herein remains subject to, among other things, the execution of a bond purchase agreement (or other appropriate form of agreement), further internal review and approvals, satisfactory completion of our due diligence investigation and market conditions.

FMS is acting independently in seeking to act as an underwriter in the transactions contemplated herein and shall not be deemed for any purpose to be acting as an agent, joint venturer or partner of any other principal involved in the proposed financing. FMS assumes no responsibility, express or implied, for any actions or omissions of, or the performance of services by, the other underwriters in connection with the transactions contemplated herein or otherwise.

If you or any other Issuer representatives have any questions or concerns about these disclosures, please make those questions or concerns known immediately to FMS. In addition, Issuer should consult with its own financial, municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate. Depending on the final structure of the transaction that the District and FMS decide to pursue, or if additional actual or perceived material conflicts are identified, we may be required to send you additional disclosures.



March 19, 2020

Meritus
Attn: Brian Lamb
2005 Pan Am Circle, Suite 300
Tampa, FL 33607

Re: Proposal to serve as Trustee, Paying Agent and Registrar for Berry Bay Community Development District Series 2020

Dear Brian:

On behalf of U.S. Bank National Association, I am pleased to submit our proposal to provide Trustee, Registrar and Paying Agent Services for the Berry Bay Community Development District.

By way of background, U.S. Bank is the fifth largest and strongest bank in the United States and is the top ranked provider for municipal corporate trust services both nationally and locally in the state of Florida. In Florida, U.S. Bank has maintained the number one ranking on municipal issuances for fourteen consecutive years.

U.S. Bank has made a long-term commitment to remain in the corporate trust business and to expand its corporate trust services through acquisitions and the establishment of offices in key areas. The following are just a few of the many advantages that make U.S. Bank Global Corporate Trust an excellent choice for corporate trust services:

- Trust officers with extensive experience in working with all parties of the financing team.
- Local presence through our Orlando, Jacksonville and South Florida offices to ensure responsiveness for you and the bondholders.

U.S. Bank now offers our clients Pivot, a web-based secure and centralized online platform which provides real-time deal and account information that matters most. Pivot is a customizable, user-friendly interface, developed by experts and fully supported by our team of specialists. With easy online access to real-time account data and analysis tools, our updated platform increases efficiency and gives our clients confidence to make strategic decisions that enhance their operations. Pivot features include: straightforward account summary dashboard, document delivery with notification tools, quick view and multi-level data summaries with efficient shortcuts, customizable data-reporting automation and account grouping, large data download capabilities, reference to 15 months of historical data, comprehensive training, tech assistance and support. For a video demonstration, click the YouTube link: <https://youtu.be/YV8AwThDRbU>

We look forward to working with Berry Bay Community Development District and continuing growing our strong banking relationship. Should you have any questions, please do not hesitate to call me directly at (407) 835-3805, or via email at:

Best regards,

Stacey L. Johnson
Vice President
Relationship Manager | Southeast Region



Berry Bay Community Development District For Trustee, Paying Agent & Registrar Services

Acceptance Fee

\$1,975.00 One Time, Payable in Advance

Covers review of documents, participation in document conferences, establishing records/accounts, authentication/delivery of bonds, receipt of funds, establishment of procedures and ticklers necessary to perform our duties and monitor the various terms and covenants in the financing documents.

Annual Administration Fee*

**\$3,750.00 Per Series, Payable in Advance
Each Additional Series \$2,750.00**

Maintenance of records in connection with the control of the bonds outstanding; review and compliance of document provisions; receive, pay out and control the movement of funds; pay periodic interest and principal; and prepare periodic accountings and reports. Bond Registrar and Paying Agent services are included. Standard Trustee disclosure information is provided in our services.

Trustee Counsel Fees

Billed at Cost, Not to Exceed \$6,000.00

Initial counsel fees paid at closing. Any additional ongoing legal fees and expenses would be billed at cost.

Investment Administration

\$1,000.00 Annual, Each Additional Account \$250

The investment fee applies to, but is not limited to outside held investments such as GIC's, forward purchase agreements, state pool funds, etc. It does not apply to U.S. Bank investment products. The investment fee includes the activities associated with establishing the account, manual processing of transactions, reconciliation of balances, wiring of funds, etc. Payable at time of initial investment and annually in advance.

Incidental Expenses

7.75% of Annual Admin. Fee

Incidental expenses, such as travel and closing expenses, wires, postage, copies, mailings, courier expenses, etc.

Pivot

Waived

Pivot provides our clients the real-time deal and account information that matters most. Through a customizable, user-friendly interface, Pivot offers our clients a secure and centralized online platform.

Extraordinary Expenses / Other Services

Billed at Cost

Extraordinary Administration Services ("EAS") are duties, responsibilities or activities not expected to be provided by the trustee or agent at the outset of the transaction, not routine or customary, and/or not incurred in the ordinary course of business, and may require analysis or interpretation. Billing for fees and expenses related to EAS is appropriate in instances where particular inquiries, events or developments are unexpected, even if the possibility of such circumstances could have been identified at the inception of the transaction, or as changes in law, procedures, or the cost of doing business demand. At our option, EAS may be charged on an hourly (time expended multiplied by current hourly rate), flat or special fee basis at such rates or in such amounts in effect at the time of such services, which may be modified by us in our sole discretion from time to time. In addition, all fees and expenses incurred by the trustee or agent, in connection with the trustee's or agent's EAS and ordinary administration services and including without limitation the fees and expenses of legal counsel, financial advisors and other professionals, charges for document amendments and substitutions, tenders, optional redemptions, UCC filings, investment agreements, outside held money market funds, default administration, wire transfers, checks, internal transfers and securities transactions, travel expenses, communication costs, postage (including express mail and overnight delivery charges), copying charges and the like will be payable, at cost, to the trustee or agent. EAS fees are due and payable in addition to annual or ordinary administration fees. Failure to pay for EAS owed to U.S. Bank within 45 days may result in interest being charged on amounts owed to U.S. Bank for extraordinary administration services fees and expenses at the prevailing market rate.

** The quoted fee does not include services as Disclosure/Dissemination Agent pursuant to Securities & Exchange commission Rule 15c12-12, as amended. U.S. Bank will discuss this service with the Obligor if applicable pursuant to the terms of the bond issue.*

Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to the client directly. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a nonindividual person such as a business entity, a charity, a trust or other legal entity, we ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

RESOLUTION 2020-05

**A RESOLUTION OF THE BOARD OF SUPERVISORS
AUTHORIZING THE RECORDING OF THE NOTICE OF
ESTABLISHMENT FOR THE BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

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

WHEREAS, the District was established by the Hillsborough County Board of County Commissioners by Ordinance 20-7, which became effective on March 11, 2020; and

WHEREAS, the District is required to file a “Notice of Establishment,” pursuant to section 190.0485, Florida Statutes; and

WHEREAS, the Board of Supervisors of the District (hereinafter the “Board”) in accordance with Florida Statutes authorizes the recording of such notice.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

Section 1. District Counsel, in accordance with section 190.0485, Florida Statutes, is hereby authorized to record the “Notice of Establishment of the Berry Bay Community Development District” (hereinafter the “Notice”), within the property records of Hillsborough County, Florida.

Section 2. The Notice shall contain at a minimum the legal description of the District and a copy of the disclosure statement as specified in section 190.048, Florida Statutes.

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

PASSED AND ADOPTED THIS 26th DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Print Name: _____
Secretary/ Assistant Secretary

Print Name: _____
Chair/ Vice Chair of the Board of Supervisors

This Instrument Prepared By and Return To:
John M. Vericker, Esq.
Straley Robin Vericker
1510 W. Cleveland Street
Tampa, FL 33606

INSTRUMENT #: 2020108922
03/17/2020 at 03:58:39 PM
Deputy Clerk: EBOLLINGER
Pat Frank, Clerk of the Circuit Court
Hillsborough County

**NOTICE OF ESTABLISHMENT OF THE
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT**

PLEASE TAKE NOTICE that the Hillsborough County Board of County Commissioners enacted Ordinance No. 20-7 (the “**Establishing Ordinance**”) establishing the Berry Bay Community Development District (the “**District**”), effective March 11, 2020. The legal description of the lands encompassed within the District is attached hereto as **Exhibit “A”**. The District is a special purpose form of local government established pursuant to and governed by Chapter 190, Florida Statutes. More information on the powers, responsibilities and duties of the District may be obtained by examining Chapter 190, Florida Statutes and the full text of the Establishing Ordinance, or by contacting the Florida Department of Economic Opportunity in accordance with Florida Statutes.

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

IN WITNESS WHEREOF, this Notice has been executed on the 17th day of March, 2020, in accordance with Section 190.0485, Florida Statutes, and whereby such Notice is to be recorded in the Official Records of Hillsborough County, Florida.

Signed, sealed and delivered in our presence:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Barbara L. Williams

(Signature)

Barbara L. Williams

(Print Name)

John M. Vericker

John M. Vericker
District Counsel

Lynn A. Butler

(Signature)

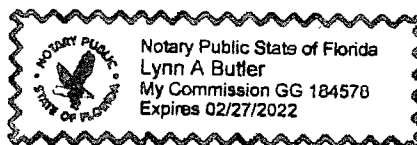
Lynn A. Butler

(Print Name)

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 17th day of March, 2020 by John M. Vericker, as District Counsel for the Berry Bay Community Development District, ☒ who is personally known to me or ☐ who has produced _____ as identification.

Lynn A. Butler
NOTARY PUBLIC, STATE OF FLORIDA



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

Exhibit “A”

BERRY BAY CDD DESCRIPTION

PARCEL A

PARCEL 1:

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA; AND THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA, LYING EAST OF U.S. HIGHWAY NO. 301.

PARCEL 2:

THAT PART OF SECTION 30, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA, LYING SOUTH AND EAST OF U.S. HIGHWAY NO. 301 (STATE ROAD NO. 43) AND NORTHEAST OF DUG CREEK ROAD, AND NORTH AND WEST OF THE CENTERLINE OF AN EXISTING CREEK KNOWN AS DUG CREEK.

PARCEL 3:

A PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 30; THENCE SOUTH 00°08'40" WEST, ALONG THE WEST BOUNDARY OF SAID SECTION 30, A DISTANCE OF 1,234.46 FEET TO A POINT OF INTERSECTION WITH THE CENTERLINE OF SURVEY BY THE STATE ROAD DEPARTMENT OF U.S. HIGHWAY NO. 301 (S.R. NO. 43); THENCE NORTH 48°51'40" EAST ALONG SAID CENTERLINE OF SURVEY, A DISTANCE OF 792.38 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT ON AN ARC OF 425.18 FEET, HAVING A RADIUS OF 1,432.40 FEET, SUBTENDED BY A CHORD OF 423.62 FEET, CHORD BEARING NORTH 40°21'20" EAST, TO THE INTERSECTION WITH THE CENTERLINE OF DUG CREEK ROAD; THENCE ALONG SAID CENTERLINE SOUTH 47°29'50" EAST A DISTANCE OF 864.86 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT ON AN ARC OF 984.20 FEET, HAVING A RADIUS OF 8,084.64 FEET, SUBTENDED BY A CHORD OF 983.59 FEET, CHORD BEARING SOUTH 44°00'35" EAST; THENCE LEAVING SAID CENTERLINE NORTH 49°28'40" EAST A DISTANCE OF 50.00 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID DUG CREEK ROAD; THENCE SOUTH 40°31'20" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 194.94 FEET FOR A POINT OF BEGINNING; THENCE NORTH 49°28'40" EAST, A DISTANCE OF 385.00 FEET TO A WITNESS CORNER; THENCE CONTINUE NORTH 49°28'40" EAST A DISTANCE OF 35.00 FEET, MORE OR LESS, TO THE CENTERLINE OF AN EXISTING CREEK; THENCE MEANDER WESTERLY ALONG THE CENTERLINE OF SAID CREEK, A DISTANCE OF 450.00 FEET, MORE OR LESS, TO A POINT OF INTERSECTION OF SAID CREEK CENTERLINE WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID DUG CREEK ROAD; THENCE SOUTH 40°31'20" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 140.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

LESS:

TRACT 1

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 12914, PAGE 304 OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, LYING IN SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 32 SOUTH, RANGE 20 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA; THENCE SOUTH 00°25'15" EAST, ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 660.70 FEET; THENCE LEAVING SAID EAST LINE, NORTH 64°37'57" WEST, A DISTANCE OF 377.51 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE WESTERLY 400.60 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 3,285.00 FEET, A CENTRAL ANGLE OF 06°59'14", AND A CHORD BEARING AND DISTANCE OF NORTH 68°07'34"

FEET, A CENTRAL ANGLE OF 06°59'14", AND A CHORD BEARING AND DISTANCE OF NORTH 68°07'34" WEST 400.35 FEET; THENCE NORTH 26°45'23" WEST, A DISTANCE OF 105.87 FEET; THENCE NORTH 18°14'37" EAST, ALONG THE EAST RIGHT-OF-WAY U.S. HIGHWAY NO. 301 (STATE ROAD 43), A 182.00 FEET WIDE RIGHT-OF-WAY ACCORDING TO STATE OF FLORIDA, STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, SECTION 10010-2504, DATED 04/27/65, A DISTANCE OF 264.08 FEET; THENCE NORTH 89°37'17" EAST, ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 19, AND SAID NORTH LINE OF THE SOUTH 1/2, RESPECTIVELY, A DISTANCE OF 672.79 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

TRACT 2

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 12914, PAGE 304 OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, LYING IN THE SOUTHWEST 1/4 OF SECTION 19 AND THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA; THENCE SOUTH 89°37'17" WEST, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 19 AND ITS WESTERLY EXTENSION, RESPECTIVELY, A DISTANCE OF 672.79 FEET; THENCE SOUTH 18°14'37" WEST, ALONG THE EAST RIGHT-OF-WAY U.S. HIGHWAY NO. 301 (STATE ROAD 43), A 182.00 FEET WIDE RIGHT-OF-WAY ACCORDING TO STATE OF FLORIDA, STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, SECTION 10010-2504, DATED 04/27/65, A DISTANCE OF 543.79 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID EAST RIGHT-OF-WAY, NORTH 63°14'37" EAST, A DISTANCE OF 105.84 FEET TO A POINT ON A NON-TANGENT CURVE TO THE RIGHT; THENCE EASTERLY 384.46 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 3,155.00 FEET, A CENTRAL ANGLE OF 06°58'55", AND A CHORD BEARING AND DISTANCE OF SOUTH 68°07'24" EAST 384.22 FEET; THENCE SOUTH 64°37'57" EAST, A DISTANCE OF 304.35 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT; THENCE SOUTHWESTERLY 46.36 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 53°07'48", AND A CHORD BEARING AND DISTANCE OF SOUTH 51°55'57" WEST 44.72 FEET; THENCE SOUTH 25°22'03" WEST, A DISTANCE OF 177.26 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE SOUTHWESTERLY 358.75 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1,192.00 FEET, A CENTRAL ANGLE OF 17°14'39", AND A CHORD BEARING AND DISTANCE OF SOUTH 33°59'23" WEST 357.40 FEET; THENCE SOUTH 42°36'42" WEST, A DISTANCE OF 294.40 FEET; THENCE NORTH 47°23'18" WEST, ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAFFOLD ROAD (DUG CREEK ROAD), A 100.00 FEET WIDE RIGHT-OF-WAY ACCORDING TO OFFICIAL RECORDS BOOK 1777, PAGE 1017 OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, A DISTANCE OF 577.00 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG AFORESAID EAST RIGHT-OF-WAY OF U.S. HIGHWAY NO. 301 (STATE ROAD 43), 312.66 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1,432.40 FEET, A CENTRAL ANGLE OF 12°30'23", AND A CHORD BEARING AND DISTANCE OF NORTH 23°51'47" EAST 312.04 FEET; THENCE CONTINUE ALONG SAID EAST RIGHT-OF-WAY, NORTH 18°14'37" EAST, A DISTANCE OF 263.90 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

TRACT 3

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 12914, PAGE 304 OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, LYING IN THE NORTH 1/2 OF SECTION 30, TOWNSHIP 32 SOUTH, RANGE 20 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA; THENCE SOUTH 89°37'17" WEST, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE

SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 19 AND ITS WESTERLY EXTENSION, RESPECTIVELY, A DISTANCE OF 672.79 FEET; THENCE SOUTH 18°14'37" WEST, ALONG THE EAST RIGHT-OF-WAY U.S. HIGHWAY NO. 301 (STATE ROAD 43), A 182.00 FEET WIDE RIGHT-OF-WAY ACCORDING TO STATE OF FLORIDA, STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, SECTION 10010-2504, DATED 04/27/65, A DISTANCE OF 807.69 FEET TO A POINT ON A NON-TANGENT CURVE TO THE RIGHT; THENCE CONTINUE ALONG SAID EAST RIGHT-OF-WAY, SOUTHWESTERLY 312.66 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1,432.40 FEET, A CENTRAL ANGLE OF 12°30'23", AND A CHORD BEARING AND DISTANCE OF SOUTH 23°51'47" WEST 312.04 FEET; THENCE SOUTH 47°23'18" EAST, ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAFFOLD ROAD (DUG CREEK ROAD), A 100.00 FEET WIDE RIGHT-OF-WAY ACCORDING TO OFFICIAL RECORDS BOOK 1777, PAGE 1017 OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, A DISTANCE OF 577.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 42°36'42" EAST, A DISTANCE OF 294.40 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE NORTHEASTERLY 358.75 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1,192.00 FEET, A CENTRAL ANGLE OF 17°14'39", AND A CHORD BEARING AND DISTANCE OF NORTH 33°59'23" EAST 357.40 FEET; THENCE NORTH 25°22'03" EAST, A DISTANCE OF 177.26 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE NORTHEASTERLY 46.36 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 53°07'48", AND A CHORD BEARING AND DISTANCE OF NORTH 51°55'57" EAST 44.72 FEET; THENCE SOUTH 64°37'57" EAST, A DISTANCE OF 588.37 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE EASTERLY 634.95 FEET, MORE OR LESS, ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 2,183.00 FEET, A CENTRAL ANGLE OF 16°39'55", AND A CHORD BEARING AND DISTANCE OF SOUTH 72°57'54" EAST 632.72 FEET TO THE CENTERLINE OF AN EXISTING CREEK KNOWN AS DUG CREEK; THENCE MEANDER ALONG SAID CENTERLINE OF DUG CREEK THE FOLLOWING TWENTY-FOUR (24) COURSES: 1) SOUTH 30°32'54" EAST, A DISTANCE OF 89.17 FEET; 2) SOUTH 68°14'41" EAST, A DISTANCE OF 88.61 FEET; 3) SOUTH 02°15'37" WEST, A DISTANCE OF 45.45 FEET; 4) SOUTH 20°53'14" EAST, A DISTANCE OF 89.33 FEET; 5) SOUTH 44°22'41" EAST, A DISTANCE OF 40.26 FEET; 6) SOUTH 04°14'11" WEST, A DISTANCE OF 79.25 FEET; 7) SOUTH 14°31'56" WEST, A DISTANCE OF 67.65 FEET; 8) SOUTH 59°36'42" WEST, A DISTANCE OF 61.85 FEET; 9) SOUTH 30°06'48" WEST, A DISTANCE OF 55.43 FEET; 10) SOUTH 37°17'05" WEST, A DISTANCE OF 90.87 FEET; 11) SOUTH 20°05'49" WEST, A DISTANCE OF 32.83 FEET; 12) SOUTH 21°14'11" WEST, A DISTANCE OF 63.40 FEET; 13) SOUTH 06°14'11" WEST, A DISTANCE OF 39.62 FEET; 14) SOUTH 02°58'04" EAST, A DISTANCE OF 50.43 FEET; 15) SOUTH 44°38'59" WEST, A DISTANCE OF 41.07 FEET; 16) SOUTH 10°05'57" EAST, A DISTANCE OF 50.65 FEET; 17) SOUTH 51°46'38" WEST, A DISTANCE OF 34.89 FEET; 18) SOUTH 74°46'38" WEST, A DISTANCE OF 45.55 FEET; 19) NORTH 89°30'12" WEST, A DISTANCE OF 43.79 FEET; 20) SOUTH 43°10'16" WEST, A DISTANCE OF 33.52 FEET; 21) SOUTH 72°06'49" WEST, A DISTANCE OF 55.51 FEET; 22) SOUTH 14°46'38" WEST, A DISTANCE OF 62.99 FEET; 23) SOUTH 24°57'12" WEST, A DISTANCE OF 34.89 FEET; 24) SOUTH 71°03'06" WEST, A DISTANCE OF 88.53 FEET; THENCE SOUTH 49°35'12" WEST, ALONG THE BOUNDARY OF THAT CERTAIN PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 12914, PAGE 304 OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, A DISTANCE OF 420.00 FEET; THENCE ALONG AFORESAID NORTHEASTERLY RIGHT-OF-WAY OF SAFFOLD ROAD (DUG CREEK ROAD) THE FOLLOWING THREE (3) COURSES: 1) NORTH 40°24'48" WEST, A DISTANCE OF 194.94 FEET TO A POINT ON A CURVE TO THE LEFT; 2) NORTHWESTERLY 990.28 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 8,134.68 FEET, A CENTRAL ANGLE OF 06°58'30", AND A CHORD BEARING AND DISTANCE OF NORTH 43°54'03" WEST 989.67 FEET; 3) NORTH 47°23'18" WEST, A DISTANCE OF 244.44 FEET TO THE POINT OF BEGINNING.

AND

PARCEL B

A PARCEL OF LAND LYING IN SECTIONS 19 AND 30, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA, EXPLICITLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 30 FOR THE POINT OF BEGINNING, THENCE ON THE EAST BOUNDARY THEREOF SOUTH 00°11'40" WEST, A DISTANCE OF 3157.65 FEET MORE OR LESS TO THE CENTERLINE OF A CREEK; THENCE MEANDER NORTHEASTERLY, EASTERLY, NORTHWESTERLY, AND NORTHERLY ALONG THE CENTERLINE OF SAID CREEK TO THE NORTH BOUNDARY OF SAID SECTION 30 AND A POINT WHICH BEARS SOUTH 89°10'52" WEST, A DISTANCE

OF 2194.61 FEET MORE OR LESS FROM THE POINT OF BEGINNING; THENCE ON SAID NORTH BOUNDARY THE SAME BEING THE SOUTH BOUNDARY OF AFORESAID SECTION 19, NORTH 89°10'52" EAST, A DISTANCE OF 2202.57 FEET TO THE POINT OF BEGINNING.

AND

A PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 30, THENCE SOUTH 00°08'40" WEST ALONG THE WEST BOUNDARY OF SAID SECTION 30, A DISTANCE OF 1234.46 FEET TO A POINT OF INTERSECTION WITH THE CENTERLINE OF SURVEY BY THE STATE ROAD DEPARTMENT OF U.S. HIGHWAY 301 (S.R.#43); THENCE NORTH 48°51'40" EAST, ALONG SAID CENTERLINE OF SURVEY, A DISTANCE OF 792.38 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT ON AN ARC OF 425.18 FEET, HAVING A RADIUS OF 1432.40 FEET; SUBTENDED BY A CHORD OF 423.62 FEET; CHORD BEARING NORTH 40°21'20" EAST TO THE INTERSECTION WITH THE CENTERLINE OF DUG CREEK ROAD; THENCE ALONG SAID CENTERLINE SOUTH 47°29'50" EAST, A DISTANCE OF 864.86 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT ON AN ARC OF 984.20 FEET, HAVING A RADIUS OF 8084.64 FEET; SUBTENDED BY A CHORD OF 983.59; CHORD BEARING SOUTH 44°00'35" EAST; THENCE LEAVING SAID CENTERLINE NORTH 49°28'40" EAST, A DISTANCE OF 50.0 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SAID DUG CREEK ROAD; THENCE SOUTH 40°31'20" EAST, ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1175.94 FEET FOR A POINT OF BEGINNING; THENCE NORTH 49°28'40" EAST, A DISTANCE OF 219.78 FEET TO A WITNESS CORNER; THENCE CONTINUE NORTH 49°28'40" EAST, A DISTANCE OF 35 FEET, MORE OR LESS, TO THE CENTERLINE OF AN EXISTING CREEK; THENCE MEANDER SOUTHERLY ALONG SAID CREEK CENTERLINE, A DISTANCE OF 380 FEET, MORE OR LESS, TO A POINT LYING NORTH 00°11'40" EAST, A DISTANCE OF 38 FEET, MORE OR LESS, OF A WITNESS CORNER; THENCE SOUTH 00°11'40" WEST, A DISTANCE OF 38 FEET, MORE OR LESS, TO SAID WITNESS CORNER, SAID POINT ALSO BEING A POINT ON A CURVE ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF DUG CREEK ROAD; THENCE ALONG SAID RIGHT-OF-WAY LINE ALONG A CURVE TO THE RIGHT ON AN ARC OF 117.87 FEET, HAVING A RADIUS OF 637.11 FEET, SUBTENDED BY A CHORD OF 117.70 FEET, CHORD BEARING NORTH 45°49'20" WEST TO A POINT OF TANGENCY; THENCE NORTH 40°31'20" WEST, A DISTANCE OF 219.00 FEET TO THE POINT OF BEGINNING. A/K/A PARCEL 24, BEING THE SAME PROPERTY AS PARCEL 1 AS RECORDED IN O.R. BOOK 8210, PAGE 735, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA.

AND

PARCEL C

COMMENCING AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 32 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA FOR A POINT OF BEGINNING; FROM SAID POINT OF BEGINNING RUN THENCE SOUTH 89°55'26" EAST ALONG THE NORTH BOUNDARY OF SAID SECTION 29 A DISTANCE OF 1978.97 FEET; THENCE RUN SOUTH 00°07'21" EAST A DISTANCE OF 1050.68 FEET; THENCE RUN SOUTH 89°55'26" EAST, ALONG A LINE 1050.68 FEET SOUTH OF AND PARALLEL WITH THE NORTH BOUNDARY OF SAID SECTION 29, A DISTANCE OF 1328.30 FEET TO THE WESTERLY RIGHT- OF-WAY OF THE SEABOARD COAST LINE RAILROAD; THENCE RUN SOUTH 32°12'05" WEST ALONG SAID WESTERLY RIGHT-OF-WAY, A DISTANCE OF 4154.56 FEET TO THE NORTHERLY RIGHT-OF-WAY OF DUG CREEK (SAFFOLD ROAD); THENCE RUN NORTH 55°51'37" WEST ALONG THE NORTHERLY RIGHT-OF-WAY OF SAID ROAD, A DISTANCE OF 197.07 FEET, CONTINUE THENCE ALONG SAID NORTHERLY ROAD RIGHT-OF-WAY NORTH 49°53'00" WEST A DISTANCE OF 1247.22 FEET TO A POINT ON THE WEST BOUNDARY OF SAID SECTION 29; THENCE RUN NORTH 00°19'49" EAST ALONG THE SAID WEST BOUNDARY, A DISTANCE OF 509.44 FEET TO THE CENTERLINE OF A CREEK; THENCE MEANDER ALONG THE CENTERLINE OF SAID CREEK THE FOLLOWING COURSES: NORTH 83°08'26" EAST, A DISTANCE OF 396.27 FEET; THENCE NORTH 69°26'38" EAST, A DISTANCE OF 169.65 FEET; THENCE NORTH 58°52'30" EAST, A DISTANCE OF 353.16 FEET; THENCE NORTH 23°46'27" WEST, A DISTANCE OF

377.31 FEET (END OF COURSES); THENCE NORTH 89°40'11" WEST, A DISTANCE OF 38.84 FEET; THENCE RUN NORTH 00°19'49" EAST, A DISTANCE OF 330 FEET; THENCE RUN NORTH 89°40'11" WEST, A DISTANCE OF 660.00 FEET TO THE WEST BOUNDARY OF SAID SECTION 29; THENCE RUN NORTH 00°19'49" EAST ALONG SAID WEST BOUNDARY, A DISTANCE OF 2178.97 FEET TO THE NORTHWEST CORNER OF SAID SECTION 29, ALSO BEING THE POINT OF BEGINNING, ALSO INCLUDING AN EASEMENT FOR INGRESS AND EGRESS CONSISTING OF THAT PORTION OF THE WEST 30.00 FEET OF SAID SECTION 29, COMMENCING AT A POINT 2178.97 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SECTION 29; THENCE RUNNING SOUTHERLY AND TERMINATING AT THE NORTH RIGHT-OF-WAY LINE OF DUG CREEK (SAFFOLD ROAD).

TOTAL OVERALL PROPERTY CONTAINING 361.816 ACRES

RESOLUTION 2020-06

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT ALLOCATING THE
COMPENSATION OF THE BOARD MEMBERS.**

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

WHEREAS, the Board of Supervisors of the District (hereinafter the “Board”) has elected to allocate the compensation of the Board;

WHEREAS, the Board desires now to accept or decline compensation.

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

Section 1. The Board of Supervisors of Berry Bay authorize the acceptance of payment of \$200.00 per meeting to Board members with a not to exceed amount of \$4,800.00 annually and/or the waiving of above payments.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY
COMMUNITY DEVELOPMENT
DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-07

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT ADOPTING GUIDELINES FOR
REIMBURSEMENT OF DISTRICT TRAVEL EXPENSES.**

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

WHEREAS, the Board desires to adopt the District Travel Reimbursement of Expenses Guidelines.

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

Section 1. The District hereby adopts the attached District Travel Expenses Reimbursement Policy (**Exhibit A**)

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

Exhibit A: District Travel Reimbursement Policy

**BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
POLICY FOR REIMBURSEMENT OF DISTRICT TRAVEL EXPENSES**

1.0 GENERAL PROVISIONS.

- 1.1** The usual, ordinary, and incidental travel expenditures necessarily incurred by District board members, employees, consultants, or advisors in the performance of their official duties shall be reimbursed by the Berry Bay Community Development District (the “District”).
- 1.2** Except as otherwise provided, prior authorization for travel is not required, but reimbursable expenses will be limited to those expenses incurred in the performance of official duties undertaken in connection with such public purposes as the District has been authorized by law to perform.
- 1.3** All claims submitted for reimbursement must be accompanied by a written statement that they are true and correct as to every material matter.

2.0 TRANSPORTATION.

- 2.1** All travel must be by a reasonably direct or usually traveled route. In the event a person travels by an indirect route for his/her own convenience, any additional cost shall be borne by the traveler and reimbursement for expenses shall be based on the usually traveled route.
- 2.2** Commercial travel shall be by the most economical method, tourist or coach class. First class rates will be paid only in the event that a statement is attached to the claim certifying that tourist or coach seating was unavailable.
- 2.3** When available without penalty for cancellation, travelers should take advantage of discount fares.
- 2.4** Transportation by common carrier when traveling on official business and paid for by the traveler shall be substantiated by a receipt.
- 2.5** Rental car expenses shall be substantiated by a copy of the rental agreement.
- 2.6** Whenever travel is by a privately-owned vehicle, the traveler shall be entitled to a mileage allowance at the fixed rate per mile as established by the Legislature in

Section 112.061, *Florida Statutes*. Should the State increase the mileage allowance specified in Section 112.061, *Florida Statutes*, the District shall, without further action, be permitted to reimburse travelers at the increased rate. As of June 2014, the mileage rate is 44.5 cents per mile.

- 2.7** All mileage shall be from point of origin to point of destination. When travel commences from a location other than the traveler's official headquarters, mileage shall be calculated on the basis of the distance from the headquarters city to the point of destination, unless the actual distance is shorter. Vicinity mileage necessary for conduct of official business is allowable, but must be identified as a separate item on the claim for reimbursement of expenses.
- 2.8** No traveler shall be allowed either mileage or transportation expense when he/she is gratuitously transported by another person, or when he/she is transported by another traveler who is entitled to mileage or transportation expense. However, a traveler on a private aircraft shall be reimbursed the actual amount charged and paid for his/her fare for such transportation up to the cost of a commercial airline ticket for the same flight if one is available, even though the owner or pilot of the aircraft is also entitled to transportation expense for the same flight.

3.0 INCIDENTAL EXPENSES.

- 3.1** Reasonable travel-related expenses for meals, lodging, gratuities, taxi fares, tolls, parking fees, and business-related telephone, telegraph, and facsimile charges shall also be reimbursed if substantiated by receipts.
- 3.2** Reimbursement for meals shall not exceed \$6 for breakfast, \$11 for lunch, and \$19 for dinner. Should the State increase the meal allowances specified in Section 112.061, *Florida Statutes*, the District shall, without further action, be permitted to reimburse travelers based on the increased limits.
- 3.3** Registration fees and other actual and necessary expenses for conventions, conferences and seminars which will serve a direct public purpose related to District activities will be considered reimbursable if persons attending such meetings receive prior approval. In the event room or meal expenses are included in the registration fee, reimbursement for these expenses will be reduced accordingly.

RESOLUTION 2020-08

**A RESOLUTION BY THE BOARD OF SUPERVISORS OF THE
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
DESIGNATING THE LOCATION OF THE LOCAL DISTRICT
RECORDS OFFICE AND PROVIDING AN EFFECTIVE DATE**

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

WHEREAS, District records are available for public review and inspection at the offices of District Manager at 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607;

WHEREAS, the District is statutorily required to designate a local district records office location for the purposes of affording citizens the ability to access the District’s records, promoting the disclosure of matters undertaken by the District, and ensuring that the public is informed of the activities of the District in accordance with Section 190.006(7), Florida Statutes.

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

1. The District’s local records office shall be located at

The offices of Meritus
2005 Pan Am Circle, Suite 300
Tampa, FL 33607

2. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS 26th DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-09

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT PROVIDING FOR THE APPOINTMENT OF A RECORDS MANAGEMENT LIAISON OFFICER; PROVIDING THE DUTIES OF THE RECORDS MANAGEMENT LIAISON OFFICER; ADOPTING A RECORDS RETENTION POLICY; AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Berry Bay created and existing pursuant to Chapter 190, Florida Statutes, being situated in Hillsborough County, Florida; and

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

WHEREAS, Section 1.2(2) of the District's Proposed Rules of Procedure appoints the Secretary of the District as the District's records custodian; and

WHEREAS, Section 257.36(5), Florida Statutes, requires the District to establish and maintain an active and continuing program for the economical and efficient management of records and to provide for the appointment of a records management liaison officer ("Records Management Liaison Officer"); and

WHEREAS, the District desires for the Records Management Liaison Officer to be an employee of the District or an employee of the District Manager; and

WHEREAS, the District desires to authorize the District's records custodian to appoint a Records Management Liaison Officer, which may or may not be the District's records custodian; and

WHEREAS, the District desires to prescribe duties of the Records Management Liaison Officer and provide for the assignment of additional duties; and

WHEREAS, the District's Board of Supervisors ("Board") finds that it is in the best interests of the District to adopt by resolution a Records Retention Policy (the "Policy") for immediate use and application; and

WHEREAS, the District desires to provide for future amendment of the Records Retention Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. The District hereby authorizes the District's records custodian to appoint a Records Management Liaison Officer and report such appointment to the appropriate State of Florida agencies. A Records Management Liaison Officer shall be an employee of the District or the District Manager. The Board, and the District's records custodian, shall each have the individual power to remove the Records Management Liaison Officer at any time for any reason. Immediately following the removal or resignation of a Records Management Liaison Officer, the District's records custodian shall appoint a replacement Records Management Liaison Officer.

SECTION 2. The duties of the Records Management Liaison Officer shall include the following:

- A. serve as the District's contact with the Florida Department of State, State Library and Archives of Florida; and
- B. coordinate the District's records inventory; and
- C. maintain records retention and disposition forms; and
- D. coordinate District records management training; and
- E. develop records management procedures consistent with the attached Records Retention Policy, as amended; and
- F. participate in the development of the District's development of electronic record keeping systems; and
- G. submit annual compliance statements; and
- H. work with the Florida Department of State, State Library and Archives of Florida to establish individual retention schedules for the District, from time to time and as may be necessary; and
- I. such other duties as may be assigned by the Board or the District's records custodian in the future.

SECTION 3. The District hereby adopts as its Records Retention Policy the applicable provisions of Section 257.36(5), Florida Statutes, the rules adopted by the Division of Library and Information Services of the Department of State ("Division") pursuant to Section 257.36, Florida Statutes, and the General Records Schedules established by the Division. However, the District hereby extends the minimum retention guidelines contained in the General Records Schedules so that the District will retain all public records relating to District business until the Board of Supervisors amends the Records Retention Policy to address the disposition of the same. To the extent the above statute, rules, or schedules are amended or supplemented in the future, the District's Records Retention Policy shall automatically incorporate such amendment or supplement provided that such automatic amendment does not permit the disposition of District records without further action of the Board. The Records Retention Policy shall remain in full force and effect until such time as the Board amends the Policy.

SECTION 4. If any provision of this resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 5. This resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed. Furthermore, upon its passage this resolution supersedes any Records Retention Policy previously adopted by the District.

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

Chairman

RESOLUTION 2020-10

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT DESIGNATING DATES, TIME
AND LOCATION FOR REGULAR MEETINGS OF THE BOARD OF
SUPERVISORS AND PROVIDING FOR AN EFFECTIVE DATE**

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

WHEREAS, the District’s Board of Supervisors (hereinafter the “Board”), is statutorily authorized to exercise the powers granted to the District, but has not heretofore met; and

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

WHEREAS, the District is required by Florida law to prepare an annual schedule of its regular public meetings which designates the date, time, and location of the District’s meetings.

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

Section 1. The annual public meeting schedule of the Board of Supervisors of the for the Fiscal Year 2020 attached hereto and incorporated by reference herein as Exhibit A is hereby approved and will be published and filed in accordance with the requirements of Florida law.

Section 2. The District Manager is hereby directed to submit a copy of the Fiscal Year 2020 annual public meeting schedule to Hillsborough County and the Department of Economic Opportunity.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY
COMMUNITY DEVELOPMENT
DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

EXHIBIT A

**BOARD OF SUPERVISORS MEETING DATES
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
FISCAL YEAR 2020**

May	07, 2020	2:00 p.m.
June	04, 2020	2:00 p.m.
July	02, 2020	2:00 p.m.
August	06, 2020	2:00 p.m.
September	03, 2020	2:00 p.m.

**All meetings will convene at the offices of Meritus
located at 2005 Pan Am Circle, Suite 300, Tampa, FL 33607**

RESOLUTION 2020-11

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

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

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

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

WHEREAS, the effective date of Ordinance No. 20-7 creating the District is March 11, 2020; and

WHEREAS, the District is statutorily required to hold a meeting of the landowners of the District for the purpose of electing supervisors for the District on a date established by the Board, which shall be noticed pursuant to Section 190.006(2)(a), Florida Statutes.

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

Section 1. In accordance with Section 190.006(2), Florida Statutes, the meeting of the landowners to elect five (5) supervisors of the District, shall be held on May 7, 2020, at 2:00 p.m. at the offices of Meritus, 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607.

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

Section 3. Pursuant to Section 190.006(2)(b), Florida Statutes, the landowners' meeting and election has been announced by the Board at its March 26, 2020 meeting. A sample notice of landowners' meeting and election, proxy, ballot form and instructions were presented at such meeting and are attached hereto as **Composite Exhibit A**. Such documents are available for review and copying during normal business hours at the District's Local Records Office, located at the office of the District Manager, Meritus, located at 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Print Name: _____
Secretary/ Assistant Secretary

Print Name: _____
Chair/ Vice Chair of the Board of Supervisors

COMPOSITE EXHIBIT A

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

Notice is hereby given to the public and all landowners within Berry Bay Community Development District (the “**District**”), the location of which is generally described as comprised of a parcel or parcels of land containing approximately 361.816 acres more or less, generally located between U.S. Highway 301 and County Road 579, south of Bonita Drive and north of Saffold Road in Wimauma, Hillsborough County, Florida, advising that a meeting of landowners will be held for the purpose of electing five (5) persons to the District Board of Supervisors. Immediately following the landowners’ meeting there will be convened a meeting of the Board of Supervisors for the purpose of considering certain matters of the Board to include election of certain District officers, and other such business which may properly come before the Board.

DATE: May 7, 2020
TIME: 2:00 p.m.
PLACE: The offices of Meritus
2005 Pan Am Circle, Suite 300
Tampa, Florida 33607

Each landowner may vote in person or by written proxy. Proxy forms may be obtained upon request at the office of the District Manager located at 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607. At said meeting each landowner or his or her proxy shall be entitled to nominate persons for the position of Supervisor and cast one vote per acre of land, or fractional portion thereof, owned by him or her and located within the District for each person nominated for the position of Supervisor. A fraction of an acre shall be treated as one acre, entitling the landowner to one vote with respect thereto. Platted lots shall be counted individually and rounded up to the nearest whole acre. The acreage of platted lots shall not be aggregated for determining the number of voting units held by a landowner or a landowner’s proxy. At the landowners’ meeting the landowners shall select a person to serve as the meeting chair and who shall conduct the meeting.

The landowners’ meeting and the Board of Supervisors meeting are open to the public and will be conducted in accordance with the provisions of Florida law. One or both of the meetings may be continued to a date, time, and place to be specified on the record at such meeting. A copy of the agenda for these meetings may be obtained from Meritus located at 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607. There may be an occasion where one or more supervisors will participate by telephone.

Any person requiring special accommodations to participate in these meetings is asked to contact the District Office at (813) 873-7300, at least 48 hours before the hearing. If you are hearing or speech impaired, please contact the Florida Relay Service at 711 for aid in contacting the District Office.

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

Brian Lamb, District Manager

Run Date(s): April 10 and 17, 2020

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

DATE OF LANDOWNERS' MEETING: **May 7, 2020**

TIME: **2:00 p.m.**

LOCATION: **The offices of Meritus
2005 Pan Am Circle, Suite 300
Tampa, Florida 33607**

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

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

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

Two (2) seats on the Board will be up for election by landowners for a four year period and three (3) seats will be up for election by landowners for a two year period. The term of office for each successful candidate shall commence upon election.

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

LANDOWNER PROXY

**BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
HILLSBOROUGH COUNTY, FLORIDA
LANDOWNERS' MEETING – MAY 7, 2020**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, the fee simple owner of the lands described herein, hereby constitutes and appoints _____ (“Proxy Holder”) for and on behalf of the undersigned, to vote as proxy at the meeting of the landowners of the Berry Bay Community Development District to be held at the offices of Meritus, located at 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607, on May 7, 2020, at 2:00 p.m., and at any adjournments thereof, according to the number of acres of unplatted land and/or platted lots owned by the undersigned landowner that the undersigned would be entitled to vote if then personally present, upon any question, proposition, or resolution or any other matter or thing that may be considered at said meeting including, but not limited to, the election of members of the Board of Supervisors. Said Proxy Holder may vote in accordance with his or her discretion on all matters not known or determined at the time of solicitation of this proxy, which may legally be considered at said meeting.

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

Printed Name of Legal Owner

Signature of Legal Owner

Date

Parcel Description

Acreage

Authorized Votes

_____	_____
_____	_____
_____	_____

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

Total Number of Authorized Votes: _____

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

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

OFFICIAL BALLOT
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT
HILLSBOROUGH COUNTY, FLORIDA
LANDOWNERS' MEETING – MAY 7, 2020

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

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

Description

Acreage

_____	_____
_____	_____
_____	_____

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

or

Attach Proxy.

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

NAME OF CANDIDATE

NUMBER OF VOTES

1. _____
2. _____
3. _____
4. _____
5. _____

Date: _____

Signed: _____

Printed Name: _____

RESOLUTION 2020-12

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT APPROVING PROPOSED BUDGET FOR THE FISCAL YEAR 2019/2020 AND SETTING A PUBLIC HEARING THEREON PURSUANT TO FLORIDA LAW; ADDRESSING TRANSMITTAL, POSTING AND PUBLICATION REQUIREMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Berry Bay Community Development District (the “**District**”) was established by the Hillsborough County Board of County Commissioners by Ordinance 20-7, which became effective on March 11, 2020; and

WHEREAS, the District Manager prepared and submitted to the Board of Supervisors of the Berry Bay Community Development District (the “**Board**”) the proposed operating budget for the Fiscal Year 2019/2020 (the “**Budget**”); and

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

1. **BUDGET APPROVED.** The operating Budget proposed by the District Manager for the Fiscal Year 2019/2020 attached hereto as **Exhibit A** is hereby approved as the basis for conducting a public hearing to adopt said Budget.

2. **SETTING A PUBLIC HEARING.** The public hearing on said approved Budget is hereby declared and set for the following date, hour and location:

DATE: May 7, 2020

HOUR: 2:00 p.m.

LOCATION: The offices of Meritus
2005 Pan Am Circle, Suite 300
Tampa, Florida 33607

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

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

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

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Print Name: _____
Secretary/ Assistant Secretary

Print Name: _____
Chair/ Vice Chair of the Board of Supervisors

Exhibit A: Fiscal Year 2019/2020 Budget

2020



BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT

FISCAL YEAR 2020
PROPOSED ANNUAL OPERATING BUDGET

MARCH 26, 2020



BERRY BAY

COMMUNITY DEVELOPMENT DISTRICT

FISCAL YEAR 2020 PROPOSED ANNUAL OPERATING BUDGET

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MARCH 26, 2020

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

BUDGET INTRODUCTION

Background Information

The Berry Bay Community Development District is a local special purpose government authorized by Chapter 190, Florida Statutes, as amended. The Community Development District (CDD) is an alternative method for planning, financing, acquiring, operating and maintaining community-wide infrastructure in master planned communities. The CDD **also is a mechanism that provides a “solution” to the State’s needs for delivery of capital infrastructure to service projected growth without overburdening other governments and their taxpayers. CDDs represent a major advancement in Florida’s effort to manage its growth effectively and efficiently.** This allows the community to set a higher standard for construction along with providing a long-term solution to the operation and maintenance of community facilities.

The following report represents the District budget for Fiscal Year 2020, which begins on October 1, 2019. The District budget is organized by fund to segregate financial resources and ensure that the segregated resources are used for their intended purpose, and the District has established the following funds.

<u>Fund Number</u>	<u>Fund Name</u>	<u>Services Provided</u>
001	General Fund	Operations and Maintenance of Community Facilities

Facilities of the District

The District’s existing facilities include storm-water management (lake and water control structures), wetland preserve areas, street lighting, landscaping, entry signage, entry features, irrigation distribution facilities, recreational center, parks, pool facility, tennis courts and other related public improvements.

Maintenance of the Facilities

In order to maintain the facilities, the District conducts hearings to adopt an operating budget each year. This budget includes a detailed description of the maintenance program along with an estimate of the cost of the program. The funding of the maintenance budget is levied as a non-ad valorem assessment on your property by the District Board of Supervisors.

BERRY BAY

COMMUNITY DEVELOPMENT DISTRICT

	Fiscal Year 2020 Proposed Operating Budget
REVENUES	
SPECIAL ASSESSMENTS - SERVICE CHARGES	
Operations & Maintenance Assmts-Tax Roll	0.00
TOTAL SPECIAL ASSESSMENTS - SERVICE CHARGES	\$0.00
CONTRIBUTIONS & DONATIONS FROM PRIVATE SOURCES	
Landowner Direct Funding	937,000.00
TOTAL CONTRIBUTIONS & DONATIONS FROM PRIVATE SOURCE	\$937,000.00
OTHER MISCELLANEOUS REVENUES	
Miscellaneous	0.00
TOTAL OTHER MISCELLANEOUS REVENUES	\$0.00
TOTAL REVENUES	\$937,000.00
EXPENDITURES	
FINANCIAL & ADMINISTRATIVE	
District Management	47,600.00
District Engineer	21,100.00
Disclosure Report	5,300.00
Trustees Fees	10,500.00
Auditing Services	6,350.00
Accounting Services	9,500.00
Postage, Phone, Faxes, Copies	5,300.00
Public Officials Insurance	5,300.00
Legal Advertising	10,500.00
Bank Fees	1,050.00
Dues, Licenses & Fees	200.00
Miscellaneous Fees	300.00
TOTAL FINANCIAL & ADMINISTRATIVE	\$123,000.00
LEGAL COUNSEL	
District Counsel	10,500.00
TOTAL DISTRICT COUNSEL	\$10,500.00
UTILITY SERVICES	
Electric Utility Services - Streetlights	468,000.00
Electric Utility Services - All Others	15,900.00
TOTAL UTILITY SERVICES	\$483,900.00
WATER-SEWER COMBINATION SERVICES	
Water Utility Services	26,500.00
TOTAL WATER-SEWER COMBINATION SERVICES	\$26,500.00
OTHER PHYSICAL ENVIRONMENT	
Waterway Management System	58,200.00
General, Property & Casualty Insurance	12,700.00
Landscape Maintenance	132,300.00
Miscellaneous Landscape	15,900.00
Plant Replacement Program	26,500.00
Irrigation Maintenance	10,500.00
TOTAL OTHER PHYSICAL ENVIRONMENT	\$256,100.00
ROAD & STREET FACILITIES	
Pavement & Drainage Repairs & Maintenance	37,000.00
TOTAL ROAD & STREET FACILITIES	\$37,000.00
TOTAL EXPENDITURES	\$937,000.00
EXCESS OF REVENUES OVER/(UNDER) EXPENDITURES	\$0.00

*** EXCLUDES 2% HILLSBOROUGH COUNTY COLLECTION COST

*** EXCLUDES 4% EARLY PAYMENT DISCOUNT

FISCAL YEAR 2020

PROPOSED ANNUAL OPERATING BUDGET

BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT

GENERAL FUND 001

Financial & Administrative

District Manager

The District retains the services of a consulting manager, who is responsible for the daily administration of the District's business, including any and all financial work related to the Bond Funds and Operating Funds of the District, and preparation of the minutes of the Board of Supervisors. In addition, the District Manager prepares the Annual Budget(s), implements all policies of the Board of Supervisors, and attends all meetings of the Board of Supervisors.

District Engineer

Consists of attendance at scheduled meetings of the Board of Supervisors, offering advice and consultation on all matters related to the works of the District, such as bids for yearly contracts, operating policy, compliance with regulatory permits, etc.

Disclosure Reporting

On a quarterly and annual basis, disclosure of relevant district information is provided to the Muni Council, as required within the bond indentures.

Trustees Fees

This item relates to the fee assessed for the annual administration of bonds outstanding, as required within the bond indentures.

Auditing Services

The District is required to annually undertake an independent examination of its books, records and accounting procedures. This audit is conducted pursuant to State Law and the Rules of the Auditor General.

Postage, Phone, Fax, Copies

This item refers to the cost of materials and service to produce agendas and conduct day-to-day business of the District.

Public Officials Insurance

The District carries Public Officials Liability in the amount of \$1,000,000.

Legal Advertising

This is required to conduct the official business of the District in accordance with the Sunshine Law and other advertisement requirements as indicated by the Florida Statutes.

Bank Fees

The District operates a checking account for expenditures and receipts.

Dues, Licenses & Fees

The District is required to file with the County and State each year.

Miscellaneous Fees

To provide for unbudgeted administrative expenses.

Office Supplies

Cost of daily supplies required by the District to facilitate operations.

Website Administration

This is for maintenance and administration of the Districts official website.

BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT

GENERAL FUND 001

Legal Counsel

District Counsel

Requirements for legal services are estimated at an annual expenditures on an as needed and also cover such items as attendance at scheduled meetings of the Board of Supervisor's, Contract preparation and review, etc.

Electric Utility Services

Electric Utility Services

This item is for street lights, pool, recreation facility and other common element electricity

Other Physical Environment

Waterway Management System

This item is for maintaining the multiple waterways that compose the District's waterway management system and aids in controlling nuisance vegetation that may otherwise restrict the flow of water

Property & Casualty Insurance

The District carries \$1,000,000 in general liability and also has sovereign immunity.

Entry & Walls Maintenance

This item is for maintaining the main entry feature and other common area walls.

Landscape Maintenance

The District contracts with a professional landscape firm to provide service through a public bid process. This fee does not include replacement material or irrigation repairs.

Miscellaneous Landscape

This item is for any unforeseen circumstances that may effect the appearance of the landscape program.

Plant Replacement Program

This item is for landscape items that may need to be replaced during the year.

BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT

SCHEDULE OF ANNUAL ASSESSMENTS⁽¹⁾

Lot Size	EAU Value	Unit Count	Debt Service Per Unit	O&M Per Unit	FY 2020 Total Assessment
ASSESSMENT AREA ONE - SERIES 2020					
Single Family 40'	1.00	295	\$0.00	\$830.00	\$830.00
Single Family 50'	1.25	381	\$0.00	\$1,075.00	\$1,075.00
Single Family 60'	1.50	261	\$0.00	\$1,315.00	\$1,315.00
Subtotal		937			
TOTAL		937			

Notations:

⁽¹⁾ Annual assessments include Hillsborough County collection costs and statutory discounts for early payment.

RESOLUTION 2020-13

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A DATE, TIME AND LOCATION OF A PUBLIC HEARING REGARDING THE DISTRICT'S INTENT TO USE THE UNIFORM METHOD FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS AS AUTHORIZED BY SECTIONS 197.3631 AND 197.3632, FLORIDA STATUTES; AUTHORIZING THE PUBLICATION OF THE NOTICE OF SUCH HEARING; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, pursuant to the provisions of Chapters 170, 190, and 197, Florida Statutes, among others, the District is authorized to levy, collect and enforce certain non-ad valorem assessments for the purposes of financing, acquiring, maintaining and/or operating community development facilities, services and improvements within and without the boundaries of the District; and

WHEREAS, the District desires to use the "Uniform Method" for the collection of non-ad valorem special assessments authorized by Section 197.3632, Florida Statutes;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

Section 1. A public hearing to adopt the Uniform Method is hereby declared and set for the following date, time and location:

DATE: May 7, 2020

TIME: 2:00 p.m.

LOCATION: The offices of Meritus
2005 Pan Am Circle, Suite 300
Tampa, Florida 33607

Section 2. The District Manager is hereby directed to publish notice of the public hearing in accordance with Section 197.3632, Florida Statutes.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Print Name: _____
Secretary/ Assistant Secretary

Print Name: _____
Chair/ Vice Chair of the Board of Supervisors

RESOLUTION 2020-14

**A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE BERRY BAY COMMUNITY DEVELOPMENT
DISTRICT DESIGNATING A DATE, TIME AND
LOCATION OF A PUBLIC HEARING REGARDING
THE DISTRICT'S ADOPTION OF ITS RULES OF
PROCEDURE; AUTHORIZING THE PUBLICATION OF
THE NOTICE OF SUCH HEARING; AND PROVIDING
AN EFFECTIVE DATE.**

WHEREAS, the Berry Bay Community Development District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 190, Florida Statutes, being situated in Hillsborough County, Florida; and

WHEREAS, pursuant to the provisions of Chapters 170, 190, and 197, Florida Statutes, among others, the District is authorized to adopt rules regarding the operation of the District; and

WHEREAS, the District desires to adopt the Rules of Procedure, substantially in the form attached hereto as **Exhibit A**; and

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

Section 1. A public hearing will be held to adopt the Rules of Procedure on May 7, 2020 at 2:00 pm, at the offices of Meritus, 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607.

Section 2. The District Manager is directed to publish notice of the hearing in accordance with Chapters 120 and 190, Florida Statutes.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Print Name: _____
Secretary/ Assistant Secretary

Print Name: _____
Chair/ Vice Chair of the Board of Supervisors

Exhibit A: Form of Rules of Procedure

Exhibit A

RULES OF PROCEDURE

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

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RULES OF PROCEDURE
BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

1.0 General.

- (1) Berry Bay Community Development District (“**District**”) was created pursuant to the provisions of Chapter 190, Florida Statutes and was established to provide for ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction.
- (2) The purpose of these Rules of Procedure (“**Rules**”) is to describe the general operations of the District. Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 190, Florida Statutes.
- (2) Definitions located within any section of the Rules shall be applicable within all other sections, unless specifically stated to the contrary.
- (3) A Rule of the District shall be effective upon adoption by affirmative vote of the Board of Supervisors of the District (the “**Board**”). After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: s.s. 190.011(5), 120.53(1)(a), Fla. Stat.

Law Implemented: s.s. 190.011(5), 120.53(1)(a), Fla. Stat.

1.1 Board of Supervisors: Officers and Voting.

- (1) Board of Supervisors. The Board shall consist of five (5) members. Members of the Board must be residents of the State of Florida and citizens of the United States of America. Board members elected or appointed by the Board to qualified elector seats must also be residents of the District, and registered to vote with the Supervisor of Elections of the county in which the District is located. The Board shall exercise the powers granted to the District.
 - (a) Board members shall hold office for the term specified by Section 190.006, Florida Statutes. If, during the term of office, any Board Member(s) vacates their office, the remaining member(s) of the Board shall fill the vacancies by appointment for the remainder of the term(s).

- (b) Three (3) members of the Board physically present at the meeting location shall constitute a quorum for the purposes of conducting business and exercising its powers and for all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited or abstains from participating in discussion or voting on a particular item. A Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present, so long as a physical quorum is met. If three (3) 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 the Rules or required by law.
- (2) Officers. At the first Board meeting held after each election or appointment where the newly elected members take office, the Board shall select a Chair, Vice-Chair, Secretary, Assistant Secretary, and Treasurer.
 - (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 vacancy. The Chair serves at the pleasure of the Board. The Chair or Vice-Chair shall be authorized to sign checks and warrants for the District, countersigned by the Treasurer. The Chair or Vice-Chair shall be authorized to execute agreements, resolutions, and other documents approved by the Board at a Board meeting. The Chair shall convene and conduct all meetings of the Board. In the event the Chair is unable to attend a meeting, the Vice-Chair shall convene and conduct the meeting. The Chair or Vice-Chair may request the District Manager or other district staff to convene and conduct any meeting of the Board.
 - (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 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.
 - (c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. 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.

- (e) In the event that both the Chair and Vice-Chair are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chair and Vice-Chair are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.
- (3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, contract negotiations, personnel matters, and budget preparation.
- (4) Record Book. The Board shall keep a permanent record book entitled “Record of Proceedings”, in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates and corporate acts. The Records of Proceedings shall be located at the District Office and shall be available for inspection by the public.
- (5) Meetings. The Board shall establish each fiscal year, an annual schedule of regular meetings, which shall be submitted to the local governing authority. All meetings of the Board and all committee meetings shall be open to the public in accord with the provisions of Chapter 286, Florida Statutes.
- (6) 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 the Florida Constitution and 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 the Board’s discussion on the matter. The member shall publicly announce the conflict of interest at the meeting. 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 be 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.

1.2 Public Information and Inspection of Records.

- (1) Public Records. All District public records within the meaning of Chapter 119, Florida Statutes, and not otherwise restricted by law, including the “Records of Proceedings”, may be copied or inspected at the District Office during regular business hours. All written public records requests shall be directed to the District’s records custodian. The District’s records custodian shall be responsible for retaining the District’s records in accordance with applicable Florida law. Regardless of the form of the request, any Board member or staff member who receives a public records request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.
- (2) Copies. Copies of public records shall be made available to the requesting person at the current rate authorized under Section 119.07(4), Florida Statutes. The requesting person may be required to pay for any charges in advance.
- (3) Coordination of Necessary Financial Disclosures. Unless specifically designated by Board resolution or otherwise, the District’s records custodian shall serve as the Financial Disclosure Coordinator (“Coordinator”) for the District as required by the Florida Commission on Ethics (the “COE”).

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

Law Implemented: s.s. 112.31446(3), 112.3145(8)(a)1., 190.006, 119.07, 119.0701, 120.53, Fla. Stat.

1.3 Public Meetings, Hearings, and Workshops.

- (1) Notice. Except in emergencies, or as otherwise required by Statute or these Rules, at least seven (7) days public notice shall be given of any public meeting, hearing, or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District as required by Florida Law and will include, as applicable:
 - (a) The date, time and place of the meeting, hearing, or workshop;

- (b) A brief description of the nature, subjects and purposes of the meeting, hearing, or workshop;
 - (c) The District Office address for the submission of requests for copies of the agenda;
 - (d) Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting, hearing, or workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting, hearing, or workshop by contacting the District Manager. If you are hearing or speech impaired, please contact Florida Relay Service at 711 who can aid you in contacting the District Office.
 - (e) A person who decides to appeal any decision made at the meeting, hearing, or workshop with respect to any matter considered at the meeting, hearing, or workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based.
 - (f) The following or substantially similar language: "The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record."
- (2) Agenda. The District Manager, under the guidance of the Chair or Vice-Chair if the Chair is unavailable, shall prepare an agenda of the meeting, hearing, or workshop. The agenda shall be available to the public at least seven (7) days before the meeting, hearing, or workshop except in an emergency. The agenda shall be available to the public at least seven days before the meeting/hearing/workshop, except in an emergency. The agenda may be changed before or at the meeting, hearing, or workshop by a vote of the Board.
- (a) The District may, but is not required, to use the following format in preparing its agenda for its regular meetings:
 - Call to order
 - Roll call
 - Audience Questions and Comments on Agenda Items
 - Review of minutes
 - Specific items of old business
 - Specific items of new business
 - Staff reports
 - (a) District Counsel
 - (b) District Engineer
 - (c) District Manager

Supervisor's requests and comments
Audience Questions and Comments
Adjournment

- (3) Minutes. The Secretary shall be responsible for keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting.
- (4) Receipt of Notice. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office. Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.
- (5) Emergency Meetings. The Chair, or Vice-Chair if the Chair is unavailable, may convene an emergency meeting of the Board without first having complied with subsections (1), (2), (4), and (6) to act on emergency matters that may affect the public 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 major 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.
- (6) Public Comment. 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.
- (7) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord 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.
- (8) Continuances. Any meeting of the Board or any item or matter included on the agenda for a 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 meeting where the item or matter was included on the agenda.

- (9) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chair, can make or second a motion.

Specific Authority: s.s. 189.015, 190.005, 190.011(5), Fla. Stat.

Law Implemented: s.s. 190.007, 190.008, 120.53, 286.0105, 286.0114, 120.54, Fla. Stat.

2.0 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. 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 short, plain explanation of the purpose and effect of the proposed rule, cite 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. The notice of rule development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed rule.
- (b) All rules shall be drafted in accord with Chapter 120, Florida Statutes.
- (3) Notice of Proceedings and Proposed Rules.
- (a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; a reference to the specific rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes 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), Florida Statutes, and a statement that any person who wishes to provide the District with a lower

cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice; and a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the District if no statement of regulatory costs is required, the proposed rule is expected to require legislative ratification pursuant to Section 120.541(3). The notice must state the procedure for requesting a public hearing on the proposed rule unless one is otherwise scheduled or required under Florida Statutes. Except when the intended action is the repeal of a rule, the notice must 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.

- (b) The notice shall be published in a newspaper of general circulation in the county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.
- (c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.
- (4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Board 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 substantial interest in the 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 Procedure 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 the cost of copies, the following materials:
- (a) The text of the proposed rule, or any amendment or repeal of any existing rules;
 - (b) A detailed written statement of the facts and circumstances justifying the proposed rule;
 - (c) A copy of the statement of estimated regulatory costs if required by Section 120.541, Florida Statutes; and
 - (d) The published notice.
- (7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.
- (8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.
- (9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54, Florida Statutes.
- (10) Variances and Waivers. Variances and waivers from these Rules may be granted to the provisions and limitations contained in Section 120.542, Florida Statutes.

- (11) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be adopted pursuant to Section 190.035, Florida Statutes. For the adoption of rates, fees, rentals or other charges, the Board must hold a public hearing and publish a notice of public hearing one time, at least ten (10) days prior to the public hearing date, in a newspaper of general circulation in the District.

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

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

3.0 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 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 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.
- (2) Eminent Domain. After determining the need to exercise the power of eminent domain pursuant to Subsection 190.11(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 the taking will occur in an unincorporated area, or of the municipality if the taking will occur within the municipality.

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

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

4.0 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) No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.
- (3) 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 or 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. This term applies only to those individuals and firms rendering services as independent contractors. 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. Contractual services also do not include any contract for the furnishing of labor or materials for the construction, repair, renovation, demolition, or modification of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property, as those services shall be governed by Rule 4.2.

- (c) “Emergency purchases” means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive solicitation would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.
- (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 or service 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 FOUR, 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, 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.

4.1 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, or 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.

4.2 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, Request for Proposal, or request for qualifications 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, Requests for Proposals, or request for qualifications. 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, statement of qualifications, 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, statements of qualifications, or proposals shall be opened at the time, date and place noted on the Invitation to Bid, Request for Proposals, or request for qualifications. 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/statement of qualifications shall be accepted; however, the Board shall have the right to reject all submissions, 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 email or United States Mail, or by hand delivery, or by overnight delivery service, and by posting the same in the District Office or website for seven (7) days.

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

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

4.3 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.
- (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 email or United States Mail, or by hand delivery, or by overnight delivery service, and by posting the same in the District Office or website for seven (7) days.
- (i) Emergency Purchases. In the event that an emergency purchase is necessary, the Board shall not be obligated to use the above procedure and may make an emergency purchase of maintenance services without complying with these Rules.

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

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

4.4 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 email or United States Mail, or by hand delivery service, or by overnight delivery service, and by posting the same in the District Office or website for seven (7) days.

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

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

4.5 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, or by hand delivery, or by overnight 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.

4.6 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. The District shall make reasonable efforts to provide copies of any notices to such persons who provide their name and address to the District Manager for inclusion on the list, but the failure to do so shall not give such consultants any bid protest or other rights or otherwise disqualify any otherwise valid procurement process. The Board has the right to reject any and all 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 email or United States Mail, or by hand delivery, or by overnight delivery service, and by posting same in the District Office or website 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.

5.0 Bid Protests.

Purpose and Scope. In order to comply with Sections 190.033(1) through (3), Florida Statutes, the following procedures and rules are outlined for the protest of any bids or contracts awarded.

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

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

5.1 Bid Protests Under the 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), or by certified/registered mail return receipt requested, or 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 5.3 of the Rules of Berry Bay 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 3.0.

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

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

5.2 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 5.2.

- (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), or by certified/registered mail return receipt requested, or by hand delivery, or by overnight delivery service (which shall be deemed delivered by the next business day). 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 copies 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 3.0.

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

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

5.3 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 proposal under Sections 4.1, 4.2, or 4.5 shall be in accordance with Section 5.3.

- (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), or by certified/registered mail return receipt requested, or 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 3.0.

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

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

6.0 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, Florida Statutes 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 4.6, 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 which may include, but not be limited to, 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. For sealed proposals, the notice shall allow for at least twenty-one (21) days, unless the Board, for good cause, determines a shorter period of time is appropriate. Any design-build project projected to cost more than five hundred thousand dollars (\$500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.
 - 2. The District may maintain 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. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

- (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. If less than three (3) proposals which meet the design criteria are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals meeting the design criteria are received, the District may proceed with the procurement of design-build services in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the design-build services without further competitive selection processes.
- (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.

7.0 District Auditor Selection Procedures.

- (1) 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.

8.0 Effective Date.

These Rules shall be effective May 7, 2020.

RESOLUTION 2020-15

A RESOLUTION SETTING FORTH THE POLICY OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT BOARD OF SUPERVISORS WITH REGARD TO THE SUPPORT AND LEGAL DEFENSE OF THE BOARD OF SUPERVISORS AND DISTRICT OFFICERS AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT THAT:

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

- a. All members of the Board of Supervisors; and
- b. The District Manager, Secretary and Assistant Secretaries, Treasurer and Assistant Treasurers, and other District officers.

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

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

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

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

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

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

7. To rebut the presumption of the automatic payment of judgments or provision of legal representation pursuant to this Resolution, at least one of the following determinations shall be made by a unanimous decision of the District's Board of Supervisors participating and voting:

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

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

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

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

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

10. In the event legal representation or defense is provided pursuant to this Resolution, the Board member and/or officer may either:

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

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

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

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

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-16

A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT DESIGNATING A PUBLIC DEPOSITORY FOR FUNDS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT, AND PROVIDING FOR AN EFFECTIVE DATE

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT THAT:

Section 1. SunTrust Bank is hereby designated as the public depository for funds of Berry Bay Community Development District.

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

- (a) Ensure that the name of the District is on the account or certificate or other form provided to the District by the qualified public depository in a manner sufficient to identify that the account is a Florida public deposit.
- (b) Execute the form prescribed by the Chief Financial Officer for identification of each public deposit account and obtain acknowledgment of receipt on the form from the qualified public depository at the time of opening the account.
- (c) Maintain the current public deposit identification and acknowledgment form as a valuable record.

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

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-17

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT DESIGNATING THE AUTHORIZED
SIGNATORIES FOR THE DISTRICT'S OPERATING BANK ACCOUNT(S), AND
PROVIDING FOR AN EFFECTIVE DATE**

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

WHEREAS, the Board of Supervisors of the District (hereinafter the "Board") has selected a depository as defined in Section 280.02, Florida Statutes, which meets all the requirements of Chapter 280 and has been designated by the State Chief Financial Officer as a qualified public depository; and

WHEREAS, the Board desires now to authorize signatories for the operating bank account(s).

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

Section 1. The Chairman, Vice Chairman, Secretary, Assistant Secretaries and Treasurer are hereby designated as authorized signatories for the operating bank account(s) of Berry Bay Community Development District.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY
COMMUNITY DEVELOPMENT
DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-18

A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING THE DISBURSEMENT OF FUNDS FOR PAYMENT OF CERTAIN CONTINUING EXPENSES WITHOUT PRIOR APPROVAL OF THE BOARD OF SUPERVISORS; AUTHORIZING THE DISBURSEMENT OF FUNDS FOR PAYMENT OF CERTAIN NON-CONTINUING EXPENSES WITHOUT PRIOR APPROVAL OF THE BOARD OF SUPERVISORS; PROVIDING FOR A MONETARY THRESHOLD; AND PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, Section 190.011(5), Florida Statutes, authorizes the District to adopt resolutions which may be necessary for the conduct of District business; and

WHEREAS, the Board of Supervisors of the District (hereinafter the "Board") typically meets monthly to conduct the business of the District, including authorizing the payment of District operating and maintenance expenses; and

WHEREAS, the Board may establish bi-monthly, quarterly or other meeting dates not on a monthly basis, or may cancel regularly scheduled monthly meetings from time to time; and

WHEREAS, to conduct the business of the District in an efficient manner, recurring, non-recurring and other disbursements for goods and services must be processed and paid in a timely manner; and

WHEREAS, establishing meeting schedules outside of monthly meetings may interfere with the timely approval of disbursements and payment of expenses; and

WHEREAS, the Board determines this Resolution is in the best interest of the District and is necessary for the efficient conduct of District business; the health, safety, and welfare of the residents within the District; and the preservation of District assets or facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT THAT:

Section 1. Continuing Expenses: The Board hereby authorizes the payment of invoices of continuing expenses, which meet the following requirements:

1. The invoices must be due on or before the next scheduled meeting of the Board of Supervisors.
2. The invoice must be pursuant to a contract or agreement authorized by the Board of Supervisors.
3. The total amount paid under such contract or agreement, including the current invoice, must be equal to or less than the amount specified in the contract or agreement.
4. The invoice amount will not cause payments to exceed the adopted budget of the District.

Section 2. Non-Continuing Expenses: The Board hereby authorizes the disbursement of funds for payment of invoices of non-continuing expenses which are 1) required to provide for the health, safety, and welfare of the residents within the District; or 2) required to repair, control, or maintain a District facility or asset beyond the normal, usual, or customary maintenance required for such facility or assets, pursuant to the following schedule:

1. Non-Continuing Expenses Not Exceeding \$5,000- with approval of the District Manager;
2. Non-Continuing Expenses Exceeding \$5,000- with approval of the District Manager and Chairman of the Board of Supervisors.

Section 3. Any payment made pursuant to this Resolution shall be submitted to the Board of Supervisors at the next scheduled meeting for approval and ratification.

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

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY
COMMUNITY DEVELOPMENT
DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-19

A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT, ADOPTING INVESTMENT GUIDELINES FOR INVESTING PUBLIC FUNDS IN EXCESS OF AMOUNTS NEEDED TO MEET CURRENT OPERATING EXPENSES, IN ACCORDANCE WITH SECTION 218.415(17), FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, the Board of Supervisors of Berry Bay Community Development District (hereinafter referred to as the “Board”) is required to adopt investment guidelines in accordance with Section 218.415, Florida Statutes; and

WHEREAS, the Board desires to adopt investment guidelines for the investment of public funds in excess of amounts needed to meet current operating expenses, in accordance with Section 218.415, Florida Statutes

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

Section 1. The District hereby adopts the attached Investment Policy (Exhibit A) for the investment of public funds in excess of the amounts needed to meet current operating expenses, in accordance with Section 218.415, Florida Statutes. The District may invest in the following instruments and may divest itself of investments, at prevailing prices or rates:

- a. The Local Government Surplus Trust Fund or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act, as provided in Section 163.01, Florida Statutes.
- b. Securities and Exchange Commission registered money market funds with the highest quality rating from a nationally recognized rating agency.
- c. Interest-bearing time deposits or savings accounts in qualified public depositories, as defined in Section 280.02, Florida Statutes.
- d. Direct obligations of the U.S. Treasury.

Section 2. Securities listed in paragraphs c and d shall be invested to provide sufficient liquidity to pay obligations as they come due.

Section 3. This Resolution shall take effect immediately upon its adoption, and any provisions of any previous resolutions in conflict with the provisions hereof are hereby superseded.

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

Exhibit A
INVESTMENT POLICY

I. PURPOSE

The purpose of this statement is to set forth the policy and objectives governing the internal and external investment management of Berry Bay Community Development District (herein referenced as the “District”) cash reserves. The investment program shall be operated in conformance with federal, state, and other legal requirements, including Florida State Statutes 218.415 and 280.

II. SCOPE

This investment policy applies to all the investment activity and cash balances of the District. Funds included are:

- General Fund
- Acquisition and Construction Funds
- Revenue Funds
- Debt Service Funds
- Reserve Funds
- Enterprise Funds
- Any new fund created by the District, unless specifically exempt.

However, any debt service requirements, bond covenants, and/or indentures will supersede this investment policy. The District intends to comply with all applicable sections of the Internal Revenue Code of 1986, Arbitrage Rebate Regulations and bond covenants with regard to the investment of bond proceeds. Bond proceeds shall be invested in securities permitted by the applicable bond documents, such as the terms of the “No-Arbitrage Certificate” issued in connection with the bonds, which requires that proceeds be invested at a yield not materially higher than the yield on the bonds. If the bond documents are silent as to permitted investments, bond proceeds will be invested in securities permitted by this Policy.

1. Pooling of Funds

Except for cash in certain restricted and special funds, the District will consolidate cash and reserve balances from all funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping, and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

III. INVESTMENT OBJECTIVES

The primary objectives, in priority order, of investment activities are to ensure the safety and preservation of investment principal, provide for liquidity, and maximize the return on investment (yield) while controlling risk through diversification and liquidity. An additional objective is to structure maturities so that known cash needs are met on a periodic basis, or as requested by the District.

1. Safety

Safety and liquidity of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.

a. Credit Risk

The District will minimize credit risk, which is the risk of loss due to the failure of the security issuer or backer, by:

- Limiting investments to the types of securities listed in Section IX of this Investment Policy;

- Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the District will do business in accordance with Section VI; and
- Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer will be minimized.

b. Interest Rate Risk

The District will minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity; and
- Investing operating funds primarily in shorter-term securities, certificates of deposit, money market mutual funds, or similar investment pools, and limiting the average maturity of the portfolio in accordance with this policy.

2. Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity). Alternatively, a portion of the portfolio may be placed in money market mutual funds or local government investment pools, which offer same-day liquidity for short-term funds.

3. Yield

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall generally be held until maturity with the following exceptions:

- A security with declining credit may be sold early to minimize loss of principal
- A security swap would improve the quality, yield, or target duration in the portfolio
- Liquidity needs of the portfolio require that the security be sold

IV. STANDARDS OF CARE

1. Prudence

The standard of prudence to be applied by the investment manager shall be the “Prudent Person” rule, which states: “Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income derived.” The “Prudent Person” rule shall be applied in the context of managing the overall portfolio.

The investment manager, acting in accordance with the written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported immediately and that appropriate action is taken to control adverse developments.

While the standard of prudence to be used by the District's staff is the Prudent Person standard, any person or firm hired or retained to invest, monitor, or advise concerning these assets shall be held to the higher standard of “Prudent Expert.” The standard shall be that in investing and reinvesting moneys and in acquiring, retaining, managing, and disposing of investments of these funds, the

consultant shall exercise: the judgment, care, skill, prudence, and diligence under the circumstances then prevailing, which persons of prudence, discretion, and intelligence, acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the funds, so as to minimize the risk, considering the probable income as well as the probable safety of their capital.

2. Delegation of Authority

Authority to manage the investment program is granted to Meritus Districts, LLC.

Responsibility for the operation of the investment program is hereby delegated to the investment manager, who shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, and collateral/depository agreements. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the investment manager. The investment manager shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

No person may engage in an investment transaction except as provided under the terms of this policy and the procedures so established. The District may appoint an outside investment manager as “Agent” for the District's cash reserves (see Section XV “External Investment Manager”).

V. MONITORING AND ADJUSTING THE PORTFOLIO

The investment manager will routinely monitor the contents of the portfolio, the available markets and the relative values of competing instruments and will adjust the portfolio accordingly.

VI. AUTHORIZED FINANCIAL INSTITUTIONS, DEPOSITORIES, AND BROKER/DEALERS

1. Authorized Financial Institutions, Depositories, and Broker/Dealers

A list will be maintained of financial institutions and broker/dealers that are approved for investment purposes (“Qualified Institutions”). Only firms meeting one of the following requirements shall be eligible to serve as Qualified Institutions:

All financial institutions and broker/dealers who desire to become qualified for investment transactions must supply the following as appropriate:

- Audited financial statements demonstrating compliance with state and federal capital adequacy guidelines;
- Proof of National Association of Securities Dealers (NASD) certification (not applicable to Certificate of Deposit counterparties);
- Certification of having read and understood and agreeing to comply with the District’s investment policy; and
- Evidence of adequate insurance coverage.
- No pending agreements or limitations with regulatory agencies.

Only firms meeting one of the following requirements shall be eligible to serve as Qualified Institutions:

A. The firm must comply with all of the following requirements:

- i.** Primary and regional dealers that qualify under Securities and Exchange Commission Rule 15 C3-1 (uniform net capital rule);
- ii.** Capital of no less than \$10,000,000;
- iii.** A member of the National Association of Securities Dealers (NASD);
- iv.** Registered to sell securities in Florida; and

- v. The firm and assigned broker have been engaged in the business of effecting transactions in U.S. government and agency obligations for at least five (5) consecutive years.
- B. Public Depositories qualified by the Treasurer of the State of Florida, in accordance with Chapter 280, Florida Statutes.
- C. Qualified Public Depositories may provide the services of a securities dealer through a Section 20 subsidiary of the financial institution.
- D. Direct issuers of commercial paper and bankers' acceptances.

An annual review of the financial condition and registration of all qualified financial institutions and broker/dealers may be conducted by the investment manager.

2. Minority and Community Financial Institutions

From time to time, the investment manager may choose to invest in instruments offered by minority and community financial institutions. In such situations, a waiver to certain parts of the criteria under Paragraph 1 may be granted by the Board of Supervisors. All terms and relationships will be fully disclosed prior to purchase and will be reported to the appropriate entity on a consistent basis and shall be consistent with state or local law. These types of investment purchases should be approved by the District in advance.

VII. SAFEKEEPING AND CUSTODY

All securities purchased by the District under this policy shall adhere to the following standards:

1. Delivery vs. Payment

All trades of marketable securities will be executed by delivery vs. payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds.

2. Safekeeping

Securities will be held by an independent third-party custodian selected by the District as evidenced by safekeeping receipts in the District's name. The safekeeping institution shall annually provide a copy of their most recent report on internal controls (Statement of Auditing Standards No. 70, or SAS 70).

3. Internal Controls

The investment manager is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the District are protected from fraud, error, imprudent actions, loss, theft, or misuse. Details of the internal controls system shall be documented in an investment procedures manual and shall be reviewed and updated as needed. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits requires estimates and judgments by management.

The internal controls structure shall address the following points:

- Control of collusion;
- Separation of transaction authority from accounting and recordkeeping;
- Custodial safekeeping;
- Avoidance of physical delivery securities;
- Clear delegation of authority to subordinate staff members;
- Written confirmation of transactions for investments and wire transfers;
- Dual authorizations of wire transfers; and

- Development of a wire transfer agreement with the lead bank and third-party custodian.

Accordingly, the investment manager shall establish a process for an annual independent review by an external auditor to assure compliance with policies and procedures or alternatively, compliance should be assured through the District annual independent audit.

VIII. SECURITY SELECTION PROCESS

- When purchasing or selling securities, the investment manager shall select the security which provides the highest rate of return within the parameters of this policy and given the current objectives and needs of the District's portfolio. These selections shall be made by comparison to the current market price as indicated by one of the market pricing resources available to the District (such as the District's financial consultants, the Wall Street Journal, or a comparable nationally recognized financial publication providing daily market pricing).

IX. AUTHORIZED INVESTMENTS

Investments should be made subject to the cash flow needs and such cash flows are subject to revisions as market conditions and the District's needs change. However, when the invested funds are needed in whole or in part for the purpose originally intended, or for more optimal investments, the investment manager may sell the investment at the then-prevailing market price and place the proceeds into the proper account.

Note: Investments not listed in this policy are prohibited.

The following are the investment requirements and allocation limits on security types, issuers, and maturities, as established by the District. The investment manager or designee shall have the option to further restrict investment percentages from time to time based on market conditions, risk, and diversification investment strategies. The percentage allocation requirements for investment types and issuers are calculated based on the market value of each investment.

For the purpose of calculating portfolio mix, the District considers the funds managed internally by staff to be a separate portfolio from the funds managed by any external investment manager.

Funds of the District may be invested in the following:

- A. U.S. Treasury Bills, Notes, and Bonds
 - With maturity dates within five years or less.
- B. Insured or Fully Collateralized Certificates of Deposit of Banks
 - With maturities of three years or less.
- C. Bonds, debentures, notes, or callables issued or guaranteed by the United States Government's agencies, provided such obligations are backed by the full faith and credit of the United States Government. Such securities will include, but not be limited to the following:
 - United States Export – Import Bank
 - ♦ Direct obligations or fully guaranteed certificates of beneficial ownership.
 - Farmer Home Administration
 - ♦ Certificates of beneficial ownership.
 - Federal Financing Bank
 - ♦ Notes, discount notes, and bonds.
 - Federal Housing Administration Debentures
 - Government National Mortgage Association (GNMA)
 - ♦ GNMA guaranteed mortgage-backed bonds.
 - ♦ GNMA guaranteed pass-through obligations.
 - General Services Administration
 - United States Maritime Administration Guaranteed

- Title XI Financing.
- New Communities Debentures
 - United States Government guaranteed debentures.
- United States Public Housing Notes and Bonds
 - United States Government guaranteed public housing notes and bonds.
- United States Department of Housing and Urban Development
 - Project notes and local authority bonds.

- Maximum maturity shall be five years or less;
- Maximum of 50%, at the time of purchase, of available funds may be invested in United States Government agencies; and
- Maximum of 10%, at the time of purchase, of available funds may be invested in any individual United States Government agencies.

D. Bonds, debentures, notes, or callables issued or guaranteed by United States Government sponsored agencies (Federal Instrumentalities) which are non-full faith and credit agencies limited to the following:

- Federal Farm Credit Bank (FFCB)
- Federal Home Loan Bank or its City Banks (FHLB)
- Federal National Mortgage Association (FNMA)
- Federal Home Loan Mortgage Corporation (Freddie-Macs) including Federal-Home Loan Mortgage Corporation participation certificates

- Maximum maturity shall be five years or less;
- Maximum of 75% at the time of purchase, of available funds may be invested in Federal Instrumentalities; and
- Maximum of 25%, at the time of purchase, of available funds may be invested in any one issuer.

E. Repurchase Agreements

- Term Repurchase Agreements collateralized by U.S. Treasury Securities and market-to-market.
 - Purchased only from authorized dealers.
 - Any authorized institution with which the District transacts repurchase agreements must have on file a fully executed copy of the District's Master Repurchase Agreement. All repurchase agreement transactions shall adhere to the requirements of the Master Repurchase Agreement.
 - Maximum portfolio mix shall not exceed 50% at any one time.
- Overnight (sweep) Repurchase Agreements collateralized by full faith or general faith and credit obligations of the United States Government or United States Government Agency securities.
 - Purchased only from the District's contracted banking service provider.
 - Securities used as collateralization for the overnight (sweep) Repurchase Agreement will be held for the benefit of the District with a third party, the Federal Reserve Bank or the contracted bank's correspondent bank in an amount not less than 101% of the overnight amount of the Repurchase Agreement.
 - Maximum portfolio mix shall not exceed 25% at any one time.

EXCEPTION: Temporary investment of bond proceeds or other extraordinary receipt of funds, until a permanent investment can be made. A permanent investment shall be made within ten (10) business days.

F. State Board of Administration local government surplus funds investment pool

- Portfolio mix shall not exceed 75% at any one time.

EXCEPTION: Temporary investment of bond proceeds or other extraordinary receipt of funds, until a permanent investment can be made. A permanent investment shall be made within ten (10)

business days.

- G.** State Board of Administration intermediate term investment pool.
- Portfolio mix shall not exceed 50% at any one time.
- H.** Money Market Funds placed with financial institutions qualifying as public depositories as provided for in Chapter 280, Florida Statutes.
- I.** Money Market Funds registered with the Securities and Exchange Commission with the highest credit quality rating from a nationally recognized rating agency.
- Portfolio mix shall not exceed 40% at any one time.
- J.** Securities of, or other interests in, any open-end or closed-end management type investment company or investment fund advised by a Registered Investment Advisor under rule 3c7 of the Investment Company Act of 1940, provided that the fund's investment guidelines state that the company or fund will seek to maintain a \$1 per share net asset value.
- K.** Securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian.
- Portfolio mix shall not exceed 15% at any one time.
- L.** Florida Municipal Investment Trust (Short-Term Bond Portfolio and/or Intermediate Term Bond Portfolio)
- Portfolio mix shall not exceed a combined total of 40% at any one time.
- M.** Commercial Paper
- Commercial paper of any United States company that is rated, "Prime-1" by Moody's and "A-1" by Standard & Poor's (prime commercial paper). If the commercial paper is backed by a letter of credit ("LOC"), the long-term debt of the LOC provider must be rated "A" or better by at least two nationally recognized rating agencies.
 1. Maximum of 25%, at the time of purchase, of available funds may be directly invested in prime commercial paper.
 2. Maximum of 5%, at the time of purchase, of available funds may be invested with any one issuer.
- Maximum length to maturity for prime commercial paper shall be one hundred eighty (180) days from the date of purchase.
- N.** Corporate Notes
- Corporate notes issued by corporations organized and operating within the United States or by depository institutions licensed by the United States that have a long-term debt rating at the time of purchase of, at a minimum, "AA" by Moody's and rated "AA" by Standard & Poor's.
 - Maximum of 25%, at the time of purchase, of available funds may be directly invested in corporate notes.
 - Maximum of 5%, at the time of purchase, of available funds may be invested with any one issuer.
 - Maximum length to maturity for corporate notes shall be (5) five years from the date of purchase.
- O.** Tax-Exempt Municipal Bonds
- State and/or local government taxable and/or tax-exempt debt, general obligation, and/or revenue bonds, rated at least "AA" by Moody's and "AA" by Standard & Poor's for long-term

debt, or rated at least “MIG-2” by Moody’s and “SP-2” by Standard & Poor’s for short-term debt.

- ♦ Maximum of 25%, at the time of purchase, of available funds may be invested in taxable and tax-exempt General Obligation bonds.
- ♦ Maximum of 10%, at the time of purchase, of available funds may be invested in taxable and tax-exempt Revenue and Excise tax bonds of the various municipalities of the State of Florida, provided none of such securities have been in default within five (5) years prior to the date of purchase.

P. Corporate Bonds

- Bonds, Notes, or other debt obligations of any corporation under the laws of the United States, any state or organized territory of the United States or District, if such obligations are rated in one of the three (3) highest rating agencies by both Moody’s and S&P or in one of the two highest categories by either S&P or Moody’s.

X. DERIVATIVES AND REVERSE REPURCHASE AGREEMENTS

Investment in any derivative products or the use of reverse repurchase agreements is not permitted. A “derivative” is defined as a financial instrument the value of which depends on, or is derived from, the value of one or more underlying assets or indices or asset values.

XI. EXISTING INVESTMENTS

Any investments currently held that do not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies so invested shall be reinvested only as provided for in this policy.

XII. DIVERSIFICATION

The investment manager will diversify use of investment instruments to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions, or maturities. Diversification strategies shall be determined and revised periodically by the investment committee.

1. Liquidity

Liquidity shall be assured through practices ensuring that the next disbursement date and payroll date are covered through marketable U.S. Treasury bills, overnight delivery vs. payment repurchase agreements or State Pool Funds. At least 10% of the portfolio shall be held in such instruments.

2. Credit Risk

Minimizing credit risk will be accomplished by limiting the maximum percentage that may be invested in any one entity or instrument at any one time, as outlined in this policy.

3. Market Risk

Risks of market price volatility shall be controlled through maturity diversification limitations established by this policy.

XIII. ACCOUNTING METHOD

Investments will be carried at cost or market value. Gains or losses from investments will be credited or charged to investment income at the time of sale. Premiums or discounts on securities may be amortized over the life of the securities. The District shall comply with Government Accounting Standards Board (GASB) requirements.

XIV. REPORTING

The investment manager shall prepare an investment report at least quarterly which includes a management

summary that provides an analysis of the status of the current investment portfolio and the individual transactions executed over the last quarter. This management summary will be prepared in a manner, which will allow the District to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report should be provided to the District's Manager for Board Presentation. Schedules in the quarterly report should include but not be limited to the following:

- A listing of individual investments held at the end of the reporting period;
- Coupon, discount, or earning rate;
- Final maturity date on all investments;
- Book and market values; and
- Income earned.

The investment manager shall provide other such reports and information as deemed reasonable, upon request, from other internal and external sources.

XV. EXTERNAL INVESTMENT MANAGER

The purpose of this section is to set forth the policy and objectives governing the District's use of external investment managers. The outside investment manager for the District is required to adhere to all of the principals as set forth by the District Investment Policy concerning: purpose, scope, objectives, prudence, internal controls, safekeeping and custody, accounting methods, debt service and bond covenants requirements, diversification, liquidity, credit risk, market risk, and reporting requirements.

1. Monitoring and Adjusting the Portfolio

The external investment manager will constantly monitor the contents of the portfolio, the available markets, and the relative values of competing securities and will adjust the portfolio accordingly. The external investment manager is required to provide the District with a confirmation of each transaction executed within ten (10) business days of the transaction. The confirmations should include all information necessary to allow the District to accurately monitor the activity of the external investment manager for compliance purposes.

2. Authorized Investments

The external investment manager may invest in the following instruments:

- U.S. Treasury Bills, Notes and Bonds
 - ♦ Maximum maturity of five years or less
- Full faith or general faith and credit obligations of the United States Government Agency Securities
 - ♦ Maximum maturity of five years or less
 - ♦ Maximum exposure of 40% per issuer
- Insured or fully collateralized Certificates of Deposit, Repurchase Agreements, Money Market Funds, and other Securities
 - ♦ As provided in the District Investment Policy Section IX "Authorized Investments", Subsections B, E, F, G, H, I, J, and K.

3. Accounting Methods

Investments will be carried at cost or market value. Gains and losses from investments will be credited or charged to investment income at the time of sale. The external investment manager is restricted from executing a trade that will realize a "Net Loss" in any of the District's accounts. A "Net Loss" is defined as any sale in which the principal loss realized on the sale of a security, in an account, is greater than the income (including accrued income) generated by that individual account during the District's fiscal year. Premiums or discounts on securities may be amortized over the life of the securities. The District shall comply with Government Accounting Standards Board (GASB) requirements.

XVI. POLICY CONSIDERATIONS

1. Exemption

Any investment currently held that does not meet the guidelines of this policy shall be exempt from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

2. Amendments

This policy shall be reviewed on an annual basis. Any changes must be approved by the investment manager and the Board of Supervisors of the District, as well as the individuals charged with maintaining internal controls.

XVII. APPROVAL OF INVESTMENT POLICY

The investment policy shall be formally approved and adopted by the governing body of the District and review on an as needed basis.

RESOLUTION 2020-20

A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT APPROVING THE FLORIDA STATEWIDE MUTUAL AID AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the State Emergency Management Act, Chapter 252, Florida Statutes, authorizes the state and its political subdivisions to develop and enter into mutual aid agreements for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted; and

WHEREAS, on March 26, 2020, the Board of Supervisors of Berry Bay Community Development District (hereinafter the “Board”) approved an agreement with the State of Florida, Division of Emergency Management (“Division”), concerning the Statewide Mutual Aid Agreement; and

WHEREAS, the Division requires an independent special district to participate in the Statewide Mutual Aid Agreement to be eligible for funds under Chapter 27P-19, Florida Administrative Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

Section 1: The foregoing ‘WHEREAS’ clauses are true and correct and are hereby ratified and confirmed by the Board of Supervisors.

Section 2: That execution of the attached Statewide Mutual Aid Agreement is hereby authorized, and the Agreement is hereby approved.

Section 3: This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY
COMMUNITY DEVELOPMENT
DISTRICT**

SECRETARY/ASSISTANT SECRETARY

CHAIRMAN

RESOLUTION 2020-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT PROVIDING FOR THE PUBLIC'S OPPORTUNITY TO BE HEARD; DESIGNATING PUBLIC COMMENT PERIODS; DESIGNATING A PROCEDURE TO IDENTIFY INDIVIDUALS SEEKING TO BE HEARD; ADDRESSING PUBLIC DECORUM; ADDRESSING EXCEPTIONS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Berry Bay Community Development District ("**District**") is a local unit of special purpose government created and existing pursuant to Chapter 190, Florida Statutes, being situated in Hillsborough County, Florida; and

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

WHEREAS, Section 286.0114, Florida Statutes, requires that members of the public be given a reasonable opportunity to be heard on a proposition before a board or commission; and

WHEREAS, Section 286.0114, Florida Statutes, sets forth guidelines for rules and policies that govern the public's opportunity to be heard at a public meeting; and

WHEREAS, the District's Board of Supervisors ("**Board**") finds that it is in the best interests of the District to adopt by resolution a policy (the "**Public Comment Policy**") for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. DESIGNATING PUBLIC COMMENT PERIODS. The District's Chairperson, his or her designee, or such other person conducting a District meeting ("**Presiding Officer**"), shall ensure that there is at least one period of time ("**Public Comment Period**") in the District's meeting agenda whereby the public has an opportunity to be heard on propositions before the Board, as follows:

- a) An initial Public Comment Period shall be provided at the start of each Board meeting before consideration of any propositions by the Board. In the event there are propositions that come before the Board that are not listed on the agenda, the Presiding Officer shall announce a Public Comment Period on such proposition prior to the Board voting on the matter.
- b) Speakers shall be permitted to address any agenda item or non-agenda matter(s) of personal or general concern, during the initial Public Comment Period.

- c) Individuals wishing to make a public comment are limited to three (3) minutes per person. Potential speakers may not assign his/her three (3) minutes to extend another speaker's time.
- d) The Presiding Officer may extend or reduce the time periods set forth herein in order to facilitate orderly and efficient District business, provided however that a reasonable opportunity for public comment shall be provided consistent with the requirements of Section 286.0114, Florida Statutes. The Presiding Officer may also elect to set and announce additional Public Comment Periods if he or she deems it appropriate.

SECTION 2. DESIGNATING A PROCEDURE TO IDENTIFY INDIVIDUALS SEEKING TO BE HEARD. Unless otherwise directed and declared by the Presiding Officer, individuals seeking to be heard on propositions before the Board shall identify themselves by a show of hands at the beginning of each Public Comment Period, as announced by the Presiding Officer. Alternatively, in the event that public attendance is high, and/or if otherwise in the best interests of the District in order to facilitate efficient and orderly District business, the Presiding Officer may require individuals to complete speaker cards that include the individual's name, address, the proposition on which they wish to be heard, the individual's position on the proposition (i.e., "for," "against," or "undecided"), and if appropriate, to indicate the designation of a representative to speak for the individual or the individual's group. In the event large groups of individuals desire to speak, the Presiding Officer may require each group to designate a representative to speak on behalf of such group. Any attorney hired to represent an individual or company's interests before the Board shall notify the Board of such representation prior to proving any public comment.

Sections 1 and 2 herein shall be deemed to apply only to District Board meetings, but the Presiding Officer of a District workshop in his or her discretion may elect to apply such Sections to District workshops.

SECTION 3. PUBLIC DECORUM. The following policies govern public decorum at public meetings and workshops:

- a) Each person addressing the Board shall proceed to the place assigned for speaking, and should state his or her name and address in an audible tone of voice for the public record.
- b) All remarks shall be addressed to the Board as a body and not to any member thereof or to any staff member. No person other than a Board Supervisor or District staff member shall be permitted to enter into any discussion with an individual speaker while he or she has the floor, without the permission of the Presiding Officer.
- c) Nothing herein shall be construed to prohibit the Presiding Officer from maintaining orderly conduct and proper decorum in a public meeting. Speakers shall refrain from disruptive behavior, and from making vulgar or threatening

remarks. Speakers shall refrain from launching personal attacks against any Board Supervisor, District staff member, or member of the public. The Presiding Officer shall have the discretion to remove any speaker who disregards these policies from the meeting.

- d) In the case that any person is declared out of order by the Presiding Officer and ordered expelled, and does not immediately leave the meeting facilities, the following steps may be taken:
- i. The Presiding Officer may declare a recess.
 - ii. The Presiding Officer may contact the local law enforcement authority.
 - iii. In case the person does not remove himself or herself from the meeting, the Presiding Officer may request that he or she be placed under arrest by local law enforcement authorities for violation of Section 871.01, Florida Statutes, or other applicable law.

SECTION 4. EXCEPTIONS. The Board recognizes and may apply all applicable exceptions to Section 286.0114, including those set forth in Section 286.0114(3) and other applicable law. Additionally, the Presiding Officer may alter the procedures set forth in this Public Comment Policy for public hearings and other special proceedings that may require a different procedure under Florida law.

SECTION 5. SEVERABILITY. If any provision of this resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed. Furthermore, upon its passage this Resolution supersedes any Public Comment Policy previously adopted by the District.

PASSED AND ADOPTED THIS 26TH DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairman

**Berry Bay Community
Development District**

Report of the District Engineer



Prepared for:
Board of Supervisors
Berry Bay
Community Development District

Prepared by:
Stantec Consulting Services Inc.
777 S. Harbour Island Boulevard
Suite 600
Tampa, FL 33602
(813) 223-9500

March 26, 2020



1.0 INTRODUCTION

The Berry Bay Community Development District ("the District") encompasses approximately 361.82 acres within Hillsborough County, Florida. The District is located within Sections 19, 29, and 30 Township 32 South, Range 20 East and is vacant land southeast of Sun City Center.

See Appendix A for a Vicinity Map and Legal Description of the District.

2.0 PURPOSE

The District was established by Hillsborough County Ordinance 2020-07 effective on March 10, 2020 for the purpose of constructing and/or acquiring, maintaining, and operating all or a portion of the public improvements and community facilities within the District. The purpose of this Report of the District Engineer is to provide a description and estimated costs of the public improvements and community facilities being planned within a portion of the District.

3.0 THE DEVELOPER AND DEVELOPMENT

The property owner EPGT, LLC plans to construct public subdivision improvements and community facilities, including water management and control, water supply, sewer and wastewater management, roads, parks and recreation, and landscaping/hardscaping/irrigation.

The District is anticipated to include 937 single family units.

See Exhibit B for the Concept Plan.

4.0 PUBLIC SUBDIVISION IMPROVEMENTS AND COMMUNITY FACILITIES

Detailed descriptions of the proposed public subdivision improvements and community facilities are provided in the following sections.

4.1 WATER MANAGEMENT AND CONTROL

The design criteria for the District's water management and control is regulated by Hillsborough County and the Southwest Florida Water Management District (SWFWMD). The water management and control plan for the District focuses on utilizing newly constructed ponds within upland areas and on-site wetlands for stormwater treatment and storage.



Any excavated soil from the ponds is anticipated to remain within the development for use in building public infrastructure including roadways, landscape berming, drainage pond bank fill requirements, utility trench backfill, and filling and grading of public property.

The primary objectives of the water management and control for the District are:

1. To provide stormwater quality treatment.
2. To protect the development within the District from regulatory-defined rainfall events.
3. To maintain natural hydroperiods in the wetlands and connecting flow ways.
4. To insure that adverse stormwater impacts do not occur upstream or downstream as a result of constructing the District improvements during regulatory-defined rainfall events.
5. To satisfactorily accommodate stormwater runoff from adjacent off-site areas which may naturally drain through the District.
6. To preserve the function of the flood plain storage during the 100 year storm event.

Water management and control systems will be designed in accordance with Hillsborough County Land Development Code and technical standards related to stormwater treatment and SWFWMD Rules and Regulations. The District is anticipated to own and maintain these facilities.

4.2 WATER SUPPLY

The District is located within the Hillsborough County Utilities Department's service area which will provide water supply for potable water service and fire protection to the property.

The water supply systems will be designed in accordance with the Hillsborough County technical standards and will also own and maintain these facilities.

4.3 SEWER AND WASTEWATER MANAGEMENT

The District is located within the Hillsborough County Utilities Department's service area which will provide sewer and wastewater management service to the District via collection system within the subdivision road rights of way and interconnecting pump stations.

All sanitary sewer and wastewater management facilities will be designed in accordance with the Department's technical standards. The Department will own and maintain these facilities.

4.4 DISTRICT ROADS

The collector road providing access to all units within the community is considered a master improvement. The other subdivision streets connecting to the collector road are considered subdivision improvement that benefit those units within that phase. District Roads include the



roadway asphalt, base, and subgrade, roadway curb and gutter, and sidewalks within rights of way abutting common areas.

All roads will be designed in accordance with Hillsborough County's Land Development Code and technical standards and Land Development Code. These roads will be owned and maintained by Hillsborough County.

4.5 PARKS AND RECREATIONAL FACILITIES

Parks and recreation facilities will be constructed within the community and will benefit all units within the community, thus considered a master improvement. These facilities will be owned and maintained by the District.

4.6 LANDSCAPING/ HARDSCAPE/IRRIGATION

Community entry monumentation and landscape buffering and screening will be provided at several access points into the District and are considered master improvements. Irrigation will also be provided in the landscaped common areas.

These improvements will be owned and maintained by the District.

4.7 PROFESSIONAL SERVICES AND PERMITTING FEES

Hillsborough County and the SWFWMD impose fees for construction permits and plan reviews. These fees vary with the magnitude and size of the development. Additionally, engineering, surveying, and architecture services are needed for the subdivision, landscape, hardscape, and community recreational facilities' design, permitting, and construction. As well, development/construction management services are required for the design, permitting, construction, and maintenance acceptance of the public improvements and community facilities.

Fees associated with performance and warranty financial securities covering Brevard County infrastructure may also be required.

These fees associated with public improvements may be funded by the District.

4.8 UNDERGROUNDING OF ELECTRICAL SERVICE

Tampa Electric Company provides service to the community and charges fees for converting overhead service to underground.



5.0 PUBLIC IMPROVEMENTS AND COMMUNITY FACILITIES COSTS

See Appendix C for the Construction Cost Estimate of the Public Improvements and Community Facilities.

6.0 SUMMARY AND CONCLUSION

The District, as outlined above, is responsible for the functional development of the lands within the District and, except as noted above in this report, such public improvements and facilities are located within the boundary of the District.

The planning and design of the District will be in accordance with current governmental regulatory requirements.

Items of construction cost in this report are based on our review and analysis of the conceptual site plans for the development and recent costs expended in similar projects of nature and size. It is our professional opinion that the estimated infrastructure costs provided herein for the development are conservative to complete the construction of the Public Improvements and Community Facilities described herein. The estimate of the construction costs is only an estimate and not a guaranteed maximum cost. The estimated cost is based on historical unit prices or current prices being experienced for on-going and similar items of work in Hillsborough County. The labor market, future costs of equipment and materials, and the actual construction process are all beyond our control. Due to this inherent possibility for fluctuation in costs, the total final cost may be more or less than this estimate.

The professional service for establishing the Construction Cost Estimate are consistent with the degree of care and skill exercised by members of the same profession under similar circumstances.

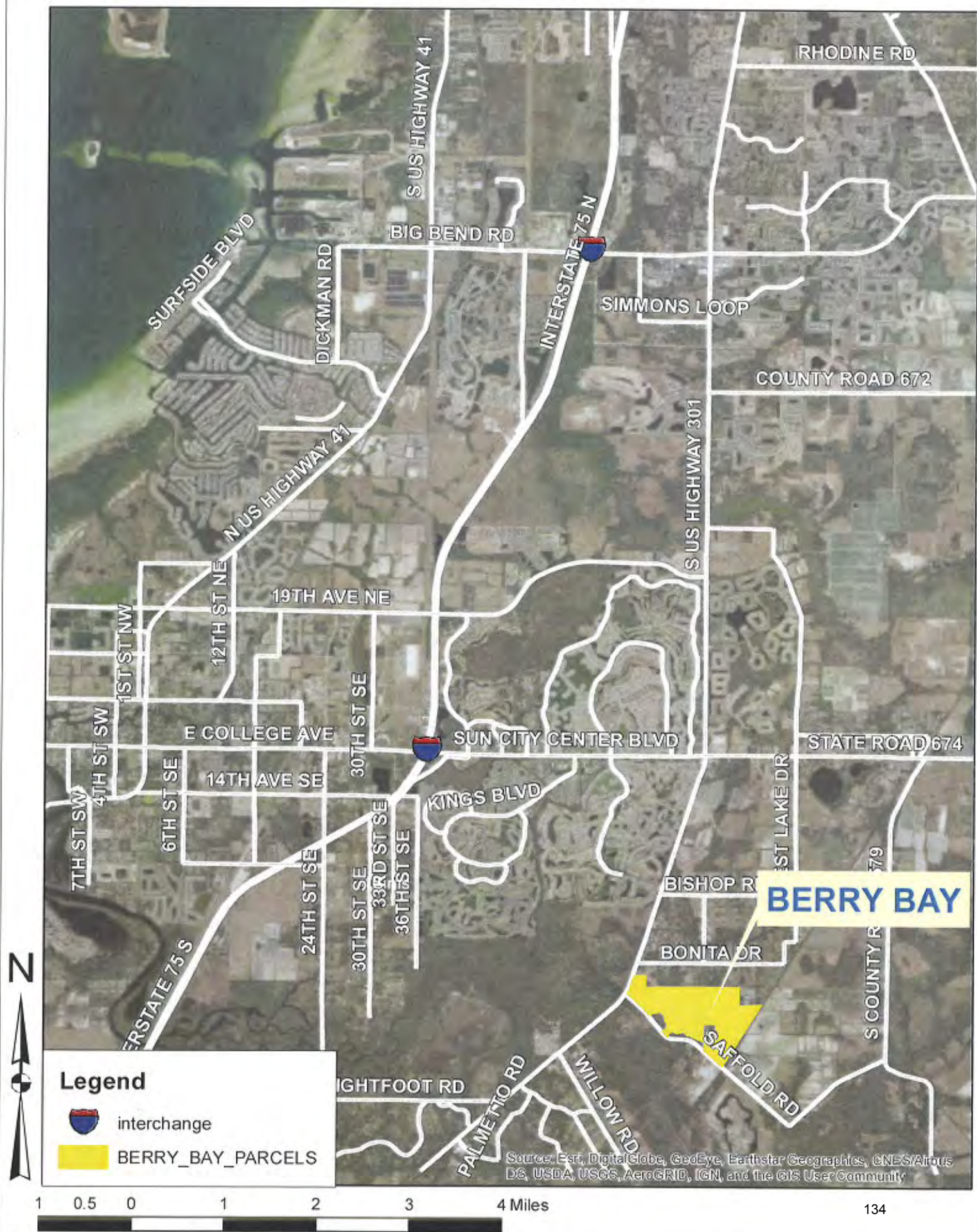
A handwritten signature in blue ink, appearing to read 'Tonja Stewart', written over a horizontal line.

Tonja Stewart, P.E.
Florida License No. 47704



Appendix A VICINITY MAP AND LEGAL DESCRIPTION OF THE DISTRICT

BERRY BAY



LEGAL DESCRIPTION

SECTIONS 19, 29, & 30, TOWNSHIP 32 SOUTH, RANGE 20 EAST
HILLSBOROUGH COUNTY, FLORIDA

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1. The first step in the process of developing a research proposal is to identify a research topic. This involves a thorough review of the literature and a consultation with your supervisor.

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[illegible]

On 22 November 1997, the *Journal of the American Medical Association* published a study that led to a wave of criticism for the FBI. The study, which was a review of 100 cases of people who had been killed by police officers, found that 68% of the cases were "justified." The study was conducted by a team of researchers from the University of Illinois at Chicago and the University of California, San Diego. The study was widely criticized for its methodology and its conclusions. The FBI responded by stating that the study was flawed and that the FBI's own statistics showed that 85% of the cases were justified. The FBI also stated that the study was biased and that it had been conducted by people who were not impartial. The FBI's response was widely criticized as well. The FBI's statistics were also widely criticized for being inflated and for not taking into account the many cases of police brutality that go unreported. The FBI's response to the study was seen as an attempt to cover up the truth and to protect the reputation of the FBI. The study and the FBI's response to it were a major part of the debate over police brutality and the use of force by police officers.

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Appendix B Concept Plan

	40' LOTS	50' LOTS	60' LOTS	TOTAL	MINIMUM CONC
E	0	0	20	20	20-40
F	53	56	0	109	100-120
G	71	87	0	158	140-160
H	0	0	50	50	50-70
I	0	144	0	144	120-160
J	0	0	64	64	100-160
K	0	0	0	0	0
L	0	0	0	0	0
M	0	0	0	0	0
N	0	0	0	0	0
O	0	0	0	0	0
P	0	0	0	0	0
Q	0	0	0	0	0
R	0	0	0	0	0
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T	0	0	0	0	0
U	0	0	0	0	0
V	0	0	0	0	0
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AM	0	0	0	0	0
AN	0	0	0	0	0
AO	0	0	0	0	0
AP	0	0	0	0	0
AQ	0	0	0	0	0
AR	0	0	0	0	0
AS	0	0	0	0	0
AT	0	0	0	0	0
AU	0	0	0	0	0
AV	0	0	0	0	0
AW	0	0	0	0	0
AX	0	0	0	0	0
AY	0	0	0	0	0
AZ	0	0	0	0	0
BA	0	0	0	0	0
BB	0	0	0	0	0
BC	0	0	0	0	0
BD	0	0	0	0	0
BE	0	0	0	0	0
BF	0	0	0	0	0
BG	0	0	0	0	0
BH	0	0	0	0	0
BI	0	0	0	0	0
BJ	0	0	0	0	0
BK	0	0	0	0	0
BL	0	0	0	0	0
BM	0	0	0	0	0
BN	0	0	0	0	0
BO	0	0	0	0	0
BP	0	0	0	0	0
BQ	0	0	0	0	0
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BU	0	0	0	0	0
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BX	0	0	0	0	0
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BZ	0	0	0	0	0
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CJ	0	0	0	0	0
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CM	0	0	0	0	0
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CO	0	0	0	0	0
CP	0	0	0	0	0
CQ	0	0	0	0	0
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CY	0	0	0	0	0
CZ	0	0	0	0	0
DA	0	0	0	0	0
DB	0	0	0	0	0
DC	0	0	0	0	0
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ED	0	0	0	0	0
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FZ	0	0	0	0	0
GA	0	0	0	0	0
GB	0	0	0	0	0
GC	0	0	0	0	0
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GE	0	0	0	0	0
GF	0	0	0	0	0
GG	0	0	0	0	0
GH	0	0	0	0	0
GI	0	0	0	0	0
GJ	0	0	0	0	0
GK	0	0	0	0	0
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GO	0	0	0	0	0
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GZ	0	0	0	0	0
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HB	0	0	0	0	0
HC	0	0	0	0	0
HD	0	0	0	0	0
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HG	0	0	0	0	0
HH	0	0	0	0	0
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IE	0	0	0	0	0
IF	0	0	0	0	0
IG	0	0	0	0	0
IH	0	0	0	0	0
II	0	0	0	0	0
IJ	0	0	0	0	0
IK	0	0	0	0	0
IL	0	0	0	0	0
IM	0	0	0	0	0
IN	0	0	0	0	0
IO	0	0	0	0	0
IP	0	0	0	0	0
IO	0	0	0	0	0
IR	0	0	0	0	0
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IU	0	0	0	0	0
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JN	0	0	0	0	0
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JT	0	0	0	0	0
JU	0	0	0	0	0
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JY	0	0	0	0	0
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KG	0	0	0	0	0
KH	0	0	0	0	0
KI	0	0	0	0	0
KJ	0	0	0	0	0
KK					



Appendix C Construction Cost Estimate

BERRY BAY CDD

PUBLIC IMPROVEMENTS AND COMMUNITY FACILITIES

MARCH 23, 2020

		ESTIMATED COSTS
Items	Description	
1	Water Management and Control	\$ 13,118,000
2	Roads	\$ 8,246,000
3	Water Supply	\$ 1,675,000
4	Sewer and Wastewater Management	\$ 3,197,000
6	Amenities	\$ 7,467,000
7	Landscape/Hardscape/Irrigation	\$ 3,777,000
	Total	\$ 37,480,000

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

MASTER ASSESSMENT METHODOLOGY REPORT



DMS District
Management
Services
A Meritus Company. Solutions for Better Communities.

Report Date:
March 26, 2020

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I. INTRODUCTION

This Master Assessment Methodology Report (the “Master Report”) details the basis of the benefit allocation and assessment methodology to support the financing plan to complete the public infrastructure required within the Berry Bay Community Development District (the “District”). The private assessable lands (“Assessable Property”) benefitting from the public infrastructure is generally described within Exhibit A of this Master Report and further described within the Engineer’s Report, dated March 26th, 2020 (the “Engineer’s Report”).

The objective of this Master Report is to:

1. Identify the District’s capital improvement program (“CIP”) for the project to be financed, constructed and/or acquired by the District; and
2. Determine a fair and equitable method of spreading the associated costs to the benefiting Assessable Properties within the District pre- and post-development completion; and
3. Provide a basis for the placement of a lien on the Assessable Properties within the District benefiting from the CIP, as outlined by the Engineer’s Report.

The basis of benefit received by Assessable Properties relates directly to the proposed CIP. It is the District’s CIP that will create the public infrastructure that enables Assessable Properties within the District to be developed and improved under current allowable densities. The CIP includes off-site improvements, storm water, utilities (water and sewer), roadways, landscape and hardscape. The Engineers Report identified estimated costs to complete the CIP, inclusive of associated “soft cost” such as legal/engineering services with contingencies to account for commodity and service market fluctuations. This report will further address additional financing cost associated with funding the CIP. Without the required improvements in the CIP, the development of the Assessable Properties could not be undertaken within the current development standards. The main objective of this Master Report is to establish a basis on which to quantify and allocate the special benefit provided by the CIP proportionally to the private property within the District. A detailed allocation methodology and finance plan will be utilized to equitably distribute CIP costs upon the Assessable Properties within the District based upon the level of proportional benefit received.

This Master Report outlines the assignment of benefit, assessment methodology and financing structure for bonds to be issued by the District. As a result of the methodology application, the maximum long-term assessment associated with the current CIP is identified. The District will issue Special Assessment Bonds (the “Bonds”), in one or more series consisting of various amounts of principal debt and maturities to finance the construction and/or acquisition of all or a portion of the CIP.

It is anticipated that the methodology consultant will prepare individual supplemental reports applying the allocation methodology contained herein for the imposition and collection of long-term special assessments on a first platted, first assigned basis for repayment of a specific series of Bonds. The methodology consultant may distribute supplemental reports in connection with updates and/or revisions to the finance plan. Such supplemental reports will be created to stipulate amended terms, interest rates, developer contributions if any, issuance costs and will detail the



resulting changes in the level of funding allocated to the various trust accounts and subaccounts.

The Bonds will be repaid from and secured by non-ad valorem assessments levied on those Assessable Properties benefiting from the public improvements within the District. Non-ad valorem assessments will be levied each year to provide the funding necessary to pay debt service on the Bonds and to fund operations and maintenance costs related to the capital improvements maintained by the District.

In summary, this Master Report will determine the benefit, apportionment and financing structure for the Bonds to be issued by the District in accordance with Chapters 170, 190 and 197, Florida Statutes, as amended, to establish a basis for the levying and collecting of special assessments based on the benefits received and is consistent with our understanding and experience with case law on this subject.

II. DEFINED TERMS

“Assessable Property:” – All property within the District that receives a special benefit from the CIP.

“Capital Improvement Program” (CIP) – The public infrastructure development program as outlined by the Engineer Report.

“Developer” – 301 Wimauma, LLC.

“Development Plan” – The end-use configuration of Platted Units and Product Types for Unplatted Parcels within the District.

“District” – Berry Bay Community Development District, 361.82 gross acres with the Development Plan for 937 Units.

“Engineer Report” – *Engineer’s Report for Berry Bay Community Development District*, dated March 26th, 2020.

“Equivalent Assessment Unit” (EAU) – A weighted value assigned to dissimilar residential lot product types to differentiate assignment of benefit and lien values.

“Maximum Assessments” – The maximum amount of special assessments and liens to be levied against benefiting assessable properties.

“Platted Units” – Private property subdivided as a portion of gross acreage by virtue of the platting process.

“Product Type” – Classification assigned by the District Engineer to dissimilar lot products for the development of the vertical construction. Determined in part as to differentiated sizes, setbacks and other factors.

“Unplatted Parcels” – Gross acreage intended for subdivision and platting pursuant to the Development Plan.

“Unit(s)” – A planned or developed residential lot assigned a Product Type classification by the District Engineer.

“Master Report” or “Report” – This *Master Assessment Methodology Report*, dated March 26th, 2020 as



provided to support benefit and Maximum Assessments Liens on private developable property within the District.

III. DISTRICT OVERVIEW

The District area encompasses 361.82 +/- acres and is located in Hillsborough County, Florida, within Sections 19, 29 and 30, Township 32 South, and Range 20 East. The primary developer of the Assessable Properties is 301 Wimauma, LLC (the “Developer”), who has created the overall development plan as outlined and supported by the Engineer’s Report. The development plan for the District contemplates 937 single family lots. The public improvements as described in the Engineer’s Report include off-site improvements, storm water, utilities (water and sewer), roadways and landscape/hardscape.

IV. PROPOSED IMPROVEMENTS

The District and Developer are undertaking the responsibility of providing the public infrastructure necessary to develop the District’s CIP. As designed, the CIP is an integrated system of facilities. Each infrastructure facility works as a system to provide special benefit to District lands, i.e.: all benefiting landowners of Assessable Properties within the District benefit the same from the first few feet of infrastructure as they do from the last few feet. The CIP costs within Table I of this Master Report reflect cost as further detailed within the Engineer’s Report, these costs are exclusive of any financing related costs.

V. DETERMINATION OF SPECIAL ASSESSMENT

There are three main requirements for valid special assessments. The first requirement demands that the improvements to benefited properties, for which special assessments are levied, be implemented for an approved and assessable purpose (F.S. 170.01). As a second requirement, special assessments can only be levied on those properties specially benefiting from the improvements (F.S. 170.01). Thirdly, the special assessments allocated to each benefited property cannot exceed the proportional benefit to each parcel (F.S. 170.02).

The District’s CIP contains a “system of improvements” including the funding, construction and/or acquisition of off-site improvements, storm water, utilities (water and sewer), roadways, and landscape/hardscape; all of which are considered to be for an approved and assessable purpose (F.S. 170.01) which satisfies the first requirement for a valid special assessment, as described above. Additionally, the improvements will result in all Assessable Property within the District receiving a direct and specific benefit, thereby making those properties legally subject to assessments (F.S. 170.01), which satisfies the second requirement, above. Finally, the specific benefit to the Assessable Property is equal to or exceeds the cost of the assessments levied on the Assessable Property (F.S. 170.02), which satisfies the third requirement, above.

The first requirement for determining the validity of a special assessment is plainly demonstrable; eligible improvements are found within the list provided in F.S. 170.01. However, the second and third requirements for a valid



special assessment require a more analytical examination. As required by F.S. 170.02, and described in the preceding section entitled “Allocation Methodology,” this approach involves identifying and assigning value to specific benefits being conferred upon the various Assessable Property, while confirming the value of these benefits exceed the cost of providing the improvements. These special benefits include, but are not limited to, the added use of the property, added enjoyment of the property, probability of decreased insurance premiums and the probability of increased marketability and value of the property.

The determination has been made that the duty to pay the non-ad valorem special assessments is valid based on the special benefits imparted upon the various Assessable Property. These benefits are derived from the acquisition and/or construction of the District’s CIP. The allocation of responsibility for payment of the Bonds has been apportioned according to reasonable estimates of the special benefits provided consistent with each land use category. Accordingly, no acre or parcel of property within the boundary of the properties will be assessed for the payment of any non-ad valorem special assessment greater than the determined special benefit particular to that parcel of the District.

Property within the District that currently is not, or upon future development, will not be subject to the special assessments include publicly owned (State/County/City/CDD) tax-exempt parcels such as: lift stations, road rights-of-way, waterway management systems, common areas, and certain lands/amenities owned by HOA(s). To the extent it is later determined that a property no longer qualifies for an exemption, assessments will be apportioned and levied based on an EAU factor proportionate to acreage density as demonstrated in other use EAU assignment.

VI. ALLOCATION METHODOLOGY

The CIP benefits all assessable properties within the District proportionally. The level of relative benefit can be compared through the use of defining “equivalent” units of measurement by product type to compare dissimilar development product types. This is accomplished through determining an estimate of the relationship between the product types, based on a relative benefit received by each product type from the CIP. The use of Equivalent Assessment Unit (EAU) methodologies is well established as a fair and reasonable proxy for estimating the benefit received by private benefiting properties. One (1) EAU has been assigned to the 40’ residential use product type as a baseline, with a proportional increase relative to other planned residential product types and sizes. Table 2 outlines EAUs assigned for residential product types under the current Development Plan. If future assessable property is added or product types are contemplated, this Report will be amended to reflect such change.

The method of benefit allocation is based on the special benefit received from infrastructure improvements relative to the benefiting Assessable Property by use and size in comparison to other Assessable Property within the District. According to F.S. 170.02, the methodology by which special assessments are allocated to specifically benefited property must be determined and adopted by the governing body of the District. This alone gives the District latitude in determining how special assessments will be allocated to specific Assessable Property. The CIP benefit and special assessment allocation rationale is detailed herein and provides a mechanism by which these costs, based on a



determination of the estimated level of benefit conferred by the CIP, are apportioned to the Assessable Property within the District for levy and collection. The allocation of benefits and Maximum Assessments associated with the CIP are demonstrated on Table 3 through Table 6. The Developer may choose to pay down or contribute infrastructure on a portion or all of the long-term assessments as evaluated on a per parcel basis, thereby reducing the annual debt service assessment associated with any series of Bonds.

VII. ASSIGNMENT OF MAXIMUM ASSESSMENTS

This section sets out the manner in which special assessments will be assigned and establish a lien on land within the District. With regard to the Assessable Property liens will be assessed on a gross acreage basis until such time as the developable acreage is platted. The platted parcels will then be reviewed as to use and product types. Pursuant to Section 193.0235, Florida Statutes, certain privately or publicly owned “common elements” such as clubhouses, amenities, lakes and common areas for community use and benefit are exempt from non-ad valorem assessments and liens regardless of the private ownership.

It is useful to consider three distinct states or conditions of development within a community. The initial condition is the “undeveloped state”. At this point the infrastructure may or may not be installed but none of the units in the Development Plan have been platted. This condition exists when the infrastructure program is financed prior to any development. In the undeveloped state all of the lands within the District receive benefit from the CIP and all of the assessable land within the District would be assessed to repay any bonds. While the land is in an “undeveloped state,” special assessments will be assigned on an equal acre basis across all of the gross acreage within the District. Debt will not be solely assigned to parcels which have development rights, but will and may be assigned to undevelopable parcels to ensure integrity of development plans, rights and entitlements.

The second condition is “on-going development”. At this point, if not already in place, the installation of infrastructure has begun. Additionally, the Development Plan has started to take shape. As lands subject to special assessments are platted and fully-developed, they are assigned specific assessments in relation to the estimated benefit that each platted unit receives from the CIP, with the balance of the debt assigned on a per acre basis as described in the preceding paragraph. Therefore, each fully-developed, platted unit would be assigned a Maximum Assessment pursuant to its Product Type classification as set forth in Table 6. It is not contemplated that any unassigned debt would remain once all of the lots associated with the improvements are platted and fully-developed; if such a condition was to occur; the true-up provisions within this Report would be applicable.

The third condition is the “completed development state.” In this condition the entire Development Plan for the District has been platted and the total par value of the Bonds has been assigned as specific assessments to each of the platted lots within the District.

VIII. FINANCING

The District intends to finance only a portion of the CIP through the issuance of the Bonds; however this report



assumes the financing of 100% of the improvements to identify the full benefit and potential. As the Bonds will be issued in one or more series, the Bonds will be sized at an amount rounded to the nearest \$5,000 and will include items such as debt service reserves, underwriter's discount, issuance costs and rounding.

For purposes of the Master Report, conservative allowances have been made for a debt service reserve, underwriter's discount, issuance costs, rounding and collection cost as shown on Table 3. The methodology consultant will issue supplemental report(s) which outline the provisions specific to each bond issue with the application of the assessment methodology contained herein. The supplemental report(s) will detail the negotiated terms, interest rates and costs associated with each series of Bonds representing the market rate at that point in time. The supplemental reports will outline any Developer contributions towards the completion of the CIP applied to prepay any assessments on any one or collective Assessable Properties within the District. The supplemental report(s) will also detail the level of funding allocated to the construction/acquisition account, the debt service reserve account, underwriter's discount, issuance and collection costs. Additionally, the supplemental report(s) will apply the principles set forth in the Master Report to determine the specific assessments required to repay the Bonds.

IX. TRUE-UP MODIFICATION

During the construction period of development, it is possible that the number of residential units built may change, thereby necessitating a modification to the per unit allocation of special assessment principal. In order to ensure the District's debt does not build up on the unplatted developable land, the District shall apply the following test as outlined within this "true-up methodology."

The debt per acre remaining on the unplatted land within the District may not increase above its ceiling debt per acre. The ceiling level of debt per acre is calculated as the total amount of debt for each Bond issue divided by the number of gross acres for such phase. Thus, every time the test is applied, the debt encumbering the remaining undivided land must remain equal to or lower than the ceiling level of debt per gross acre. If the debt per gross acre is found to be above the established maximum, the District would require a density reduction payment in an amount sufficient to reduce the remaining debt per acre to the ceiling amount based on the schedule found in Exhibit A, the Preliminary Assessment Roll, which amount will include accrued interest to the first interest payment date on the Bonds which occurs at least 45 days following such debt reduction payment.

True-up tests shall be performed upon the recording of each plat submitted to subdivide developed lands within the District. If upon the completion of any true-up analyses it is found the debt per acre exceeds the established maximum ceiling debt per gross acre, or there is not sufficient development potential in the remaining acreage of the District to produce the EAU densities required to adequately service Bond debt, the District shall require the immediate remittance of a density reduction payment, plus accrued interest as applicable, in an amount sufficient to reduce the remaining debt per assessable acre to the ceiling amount per acre and to allow the remaining acreage to adequately service Bond debt upon development. The final test shall be applied at the platting of 100% of the development units



within the District.

True-up payment requirements may be suspended if the landowner can demonstrate, to the reasonable satisfaction of the District, that there is sufficient development potential in the remaining acreage within the District to produce the densities required to adequately service Bond debt. The Developer and District will enter into a true-up agreement to evidence the obligations described in this section.

All assessments levied run with the land and it is the responsibility of the District to enforce the true-up provisions and collect any required true-up payments due. The District will not release any liens on property for which true-up payments are due, until provision for such payment has been satisfactorily made.

X. ADDITIONAL STIPULATIONS

Meritus Districts was retained by the District to prepare a methodology to fairly allocate the special assessments related to the Districts CIP. Certain financing, development and engineering data was provided by members of District Staff and/or the Developer. The allocation Methodology described herein was based on information provided by those professionals. Meritus Districts makes no representations regarding said information transactions beyond restatement of the factual information necessary for compilation of this report. For additional information on the Bond structure and related items, please refer to the Offering Statement associated with this transaction.

Meritus Districts does not represent the District as a Municipal Advisor or Securities Broker nor is Meritus Districts registered to provide such services as described in Section 15B of the Securities and Exchange Act of 1934, as amended. Similarly, Meritus Districts does not provide the District with financial advisory services or offer investment advice in any form.



TABLE 1

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT BUILDOUT COMMUNITY DEVELOPMENT PROGRAM COSTS	
DESCRIPTION	TOTAL PROJECT COSTS
Water Management & Control	13,118,000
Roads	8,246,000
Water Supply	1,675,000
Sewer & Wastewater Management	3,197,000
Amenities	7,467,000
Landscapae/Hardscape/Irrigation	3,777,000
TOTAL	37,480,000

TABLE 2

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT PLANNED DEVELOPMENT PROGRAM				
PRODUCT	LOT SIZE	UNITS	PER UNIT EAU ⁽²⁾	TOTAL EAUs
Single Family	40	295	1.00	295.00
Single Family	50	381	1.25	476.25
Single Family	60	261	1.50	391.50
TOTAL		937		1,162.75

⁽¹⁾ EAU factors assigned based on Product Type as identified by district engineer and do not reflect front footage of planned lots.

⁽²⁾ Any development plan changes will require recalculations pursuant to the true-up provisions within this report.



TABLE 3

DEVELOPMENT PROGRAM COST/BENEFIT ANALYSIS	
PROJECT COSTS	\$37,480,000
TOTAL PROGRAM EAUS	1162.75
TOTAL COST/BENEFIT	<u><u>\$32,234</u></u>

Table 3 Notations:

1) Benefit is equal to or greater than cost as assigned per Equivalent Assessment Unit ("EAU") as described above.

TABLE 4

DEVELOPMENT PROGRAM *NET* COST/BENEFIT ANALYSIS					
PRODUCT TYPE	EAU FACTOR	PRODUCT COUNT	EAUs	NET BENEFIT PER PRODUCT TYPE	PER PRODUCT UNIT
40	1.00	295	295.00	\$9,509,009	\$32,233.93
50	1.25	381	476.25	\$15,351,408	\$40,292.41
60	1.50	261	391.50	\$12,619,583	\$48,350.89
		<u>937</u>	<u>1,162.75</u>	<u>\$37,480,000</u>	

Table 4 Notations:

1) Table 4 determines only the anticipated construction cost, net of finance and other related costs.



TABLE 5

CONSTRUCTION COST AND BENEFIT						
PRODUCT TYPE	EAU FACTOR	PRODUCT COUNT	EAUs	PERCENTAGE OF EAUs	TOTAL AMOUNT PER PRODUCT TYPE	TOTAL AMOUNT PER LOT
40	1.00	295	295.00	25.4%	\$9,509,009	\$32,234
50	1.25	381	476.25	41.0%	\$15,351,408	\$40,292
60	1.50	261	391.50	33.7%	\$12,619,583	\$48,351
		937	1,162.75	100%	\$37,480,000	

TABLE 6

CONSTRUCTION COST FUNDING SOURCES					
PRODUCT TYPE	PRODUCT COUNT	PER PRODUCT TYPE		PER UNIT	
		DEVELOPER FUNDED	SERIES 2020 BONDS	DEVELOPER FUNDED	SERIES 2020 BONDS
40	295	\$0	\$9,509,009	\$0.00	\$32,233.93
50	381	\$0	\$15,351,408	\$0.00	\$40,292.41
60	261	\$0	\$12,619,583	\$0.00	\$48,350.89
	937	\$0	\$37,480,000		



TABLE 7

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT CDD ASSESSMENT ANALYSIS		
FINANCING INFORMATION - FINANCING INFORMATION BOND SERIES		
Coupon Rate ⁽¹⁾		7.00%
Term (Years)		32
Principal Amortization Installments		30
ISSUE SIZE		\$49,590,000
Construction Fund		\$37,480,000
Capitalized Interest (Months) ⁽²⁾	24	\$6,942,600
Debt Service Reserve Fund	100%	\$3,921,226
Underwriter's Discount	2.00%	\$991,800
+ Premium / - Discount		\$100,000
Cost of Issuance		\$150,000
Rounding		\$4,374
ANNUAL ASSESSMENT		
Annual Debt Service (Principal plus Interest)		\$3,921,226
Collection Costs and Discounts @	6.00%	\$250,291
TOTAL ANNUAL ASSESSMENT		\$4,171,517
⁽¹⁾ Based on conservative interest rate, subject to change based on market conditions.		
⁽²⁾ Based on capitalized interest 24 months.		



TABLE 8

**BERRY BAY
COMMUNITY DEVELOPMENT DISTRICT
CDD ASSESSMENT ANALYSIS**

ALLOCATION METHODOLOGY - SERIES 2020 LONG TERM BONDS ⁽¹⁾								
PRODUCT	PER UNIT EAU	TOTAL EAUs	% OF EAUs	UNITS	PRODUCT TYPE		PER UNIT	
					TOTAL PRINCIPAL	ANNUAL ASSMT. ⁽²⁾	TOTAL PRINCIPAL	ANNUAL ASSMT. ⁽²⁾
Single Family 40'	1.00	295.00	25.37%	295	12,581,423	1,058,351	\$42,649	\$3,588
Single Family 50'	1.25	476.25	40.96%	381	20,311,536	1,708,609	\$53,311	\$4,485
Single Family 60'	1.50	391.50	33.67%	261	16,697,041	1,404,557	\$63,973	\$5,381
TOTAL		1,162.75	33.67%	937	\$49,590,000	\$4,171,517		

⁽¹⁾ Allocation of total bond principal (i.e., assessment) based on equivalent assessment units. Individual principal and interest assessments calculated on a per unit basis. 24 month Capitalized Interest Period.

⁽²⁾ Includes principal, interest and collection costs.

EXHIBIT A

The maximum par amount of Bonds that may be borrowed by the District to pay for the public capital infrastructure improvements is \$49,590,000.00 payable in 30 annual installments of principal of \$10,837.50 per gross acre. The maximum par debt is \$137,057.10 per gross acre and is outlined below.

Prior to platting, the debt associated with the Capital Improvement Plan will initially be allocated on a per acre basis within the District. Upon platting, the principal and long term assessment levied on each benefited property will be allocated to platted lots and developed units in accordance with this Report.

ASSESSMENT ROLL			
TOTAL ASSESSMENT:		<u>\$49,590,000.00</u>	
ANNUAL ASSESSMENT:		<u>\$3,921,225.88</u>	(30 Installments)
TOTAL GROSS ASSESSABLE ACRES +/-:		<u>361.82</u>	
TOTAL ASSESSMENT PER ASSESSABLE GROSS ACRE:		<u>\$137,057.10</u>	
ANNUAL ASSESSMENT PER GROSS ASSESSABLE ACRE:		<u>\$10,837.50</u>	(30 Installments)
		PER PARCEL ASSESSMENTS	
Landowner Name, Hillsborough County Folio ID & Address	Gross Unplatted Assessable Acres	Total PAR Debt	Total Annual
		<u>\$49,590,000.00</u>	<u>\$3,921,225.88</u>
EPI LLC Folio IDs 079637-0000; 079709-0000; 079715-0000; 079715-1200; 079715-4000 111 S. Armenia Avenue, Suite 201 Tampa, FL 33609	361.82		
Totals:	<u>361.82</u>	<u>\$49,590,000.00</u>	<u>\$3,921,225.88</u>



RESOLUTION 2020-22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$49,590,000 PRINCIPAL AMOUNT BERRY BAY COMMUNITY DEVELOPMENT DISTRICT SPECIAL ASSESSMENT REVENUE BONDS IN ONE OR MORE SERIES, FOR THE PURPOSE OF FINANCING THE CONSTRUCTION AND/OR ACQUISITION BY THE DISTRICT OF THE PUBLIC IMPROVEMENTS AND COMMUNITY FACILITIES PERMITTED BY THE PROVISIONS OF CHAPTER 190, FLORIDA STATUTES AND THE ORDINANCE ESTABLISHING THE DISTRICT; APPROVING A FORM OF A MASTER TRUST INDENTURE; APPROVING AND APPOINTING A TRUSTEE; AUTHORIZING THE COMMENCEMENT OF VALIDATION PROCEEDINGS RELATING TO THE FOREGOING BONDS; AUTHORIZING AND APPROVING OTHER MATTERS RELATING TO THE FOREGOING BONDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 20-7 of Hillsborough County, Florida (the “Ordinance”) Berry Bay Community Development District (the “District”) was established in the manner provided by law; and

WHEREAS, the District is authorized by the provisions of Chapter 190, Florida Statutes (the “Act”) and the Ordinance and subject to the limitations set forth in the Act and in the Ordinance, to issue its bonds and other evidence of indebtedness for the purpose, among other things, of constructing and/or acquiring public improvements and community facilities set forth in Section 190.012, Florida Statutes, (the “Project”); and

WHEREAS, the Project will provide significant benefits to the lands within its boundaries, is necessary for the public health, safety and welfare and is in the best interest of the District, its landowners and future residents; and

WHEREAS, the District is authorized by the Act to make payments of principal, interest, and premium, if any, with respect to such bonds or other evidence of indebtedness by levying and collecting Pledged Revenues (as defined in the Indenture as defined below); and

WHEREAS, the District now desires to authorize the issuance of its special assessment revenue bonds in one or more series (the “Bonds”), in a principal amount not to exceed \$49,590,000 for the principal purpose of financing the construction and acquisition of the Project, to approve a Master Trust Indenture under which the Bonds will be issued; to appoint a

trustee to serve under the Master Trust Indenture, to authorize the validation of the Bonds and to provide for various other matters relating thereto.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BERRY BAY COMMUNITY DEVELOPMENT DISTRICT as follows:

SECTION 1. Authorization. There is hereby authorized to be issued not exceeding \$49,590,000 principal amount of Berry Bay Community Development District special assessment revenue bonds in one or more series (the "Bonds"). The Bonds shall be issued under and secured by a Master Trust Indenture, as supplemented by one or more Supplemental Indenture(s) (the "Indenture"). The form of the Master Trust Indenture is attached hereto as **Exhibit "A"** and, by this reference, is incorporated in this Resolution as if set forth in full herein. The Bonds shall be dated, shall contain such further description, shall mature in amounts and at times, shall bear interest at the rates, and shall be redeemable at the redemption prices and upon the terms, all as shall be set forth in a resolution adopted by the Board of Supervisors (the "Board") of the District at or before the execution and delivery of the Bonds by the Chairman or Vice Chairman of the Board, which Bonds shall be attested by the Secretary or any Assistant Secretary of the Board, and shall be authenticated by the Trustee under the Indenture.

SECTION 2. Approval of Master Trust Indenture. The Master Trust Indenture is hereby approved in substantially the form set forth in Exhibit "A" hereto and the Chairman or the Vice Chairman of the Board are hereby authorized and directed to execute and deliver such Master Trust Indenture on behalf of and in the name of the District and the Secretary or any Assistant Secretary of the Board is hereby authorized to attest such execution, with such additions and deletions therein as may be made and approved by the Chairman or the Vice Chairman executing the same, such execution to be conclusive evidence of such approval.

SECTION 3. Trustee. The District hereby authorizes and approves U.S. Bank National Association, to serve as Trustee under the Master Trust Indenture and to take the actions required of the Trustee in connection with the execution and delivery of the Bonds.

SECTION 4. Validation. Bond Counsel, Akerman LLP, and District Counsel, Straley Robin Vericker, are hereby authorized and directed to prepare, file and prosecute proceedings to validate the Bonds in the manner prescribed by the laws of the State of Florida. The District Manager, engineering consultant, financial consultant, Chairman, Vice-Chairman and/or any other members of the Board and staff are hereby directed and authorized to provide such documents and testimony as may be necessary or useful in the prosecution of the validation proceedings as directed by counsel.

SECTION 5. Open Meetings. It is hereby found and determined that all acts of the Board concerning and relating to adoption of this Resolution were taken in open meetings of the Board and all deliberations of the Board that resulted in such official acts were in meetings open to the public in compliance with all legal requirements, including, but not limited to, the requirements of Florida Statutes, Section 286.011.

SECTION 6. Inconsistent Resolutions and Motions. All prior resolutions of the Board inconsistent with the provisions of this Resolution are hereby modified, supplemented and

amended to conform with the provisions herein contained and, except as so modified, supplemented and amended hereby, shall remain in full force and effect.

SECTION 7. Approval of Prior Actions. All actions taken to date by the members of the Board and the staff of the District in furtherance of the issuance of the Bonds are hereby approved, confirmed and ratified.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its adoption.

ADOPTED this 26th day of March, 2020.

**BERRY BAY COMMUNITY DEVELOPMENT
DISTRICT**

By: _____
Its: Chairperson, Board of Supervisors

Attest:

Its: Secretary/Assessment Secretary

MASTER TRUST INDENTURE

between

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

and

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

Dated as of _____ 1, 2020

relating to

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

SPECIAL ASSESSMENT REVENUE BONDS

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Exhibit A – Acquisition and Construction Fund Requisition

THIS MASTER TRUST INDENTURE, dated as of _____ 1, 2020 (the “Master Indenture”), by and between BERRY BAY COMMUNITY DEVELOPMENT DISTRICT (together with its permitted successors and assigns, the “Issuer”), a local unit of special-purpose government organized and existing under the laws of the State of Florida, and U.S. BANK NATIONAL ASSOCIATION, a national banking association authorized to accept and execute the trusts herein set forth (said banking association and any bank or trust company becoming successor trustee under this Master Indenture and all Supplemental Indentures (as hereinafter defined) being hereinafter referred to as the “Trustee”);

W I T N E S S E T H:

WHEREAS, the Issuer is a local unit of special purpose government duly organized and existing under the provisions of the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “Act”), and established by Ordinance No. 20-7 of Hillsborough County, Florida effective on March 11, 2020, for the purpose, among other things, of financing and managing the acquisition and construction, maintenance, and operation of public infrastructure and other public facilities within and without the boundaries of the premises to be governed by the Issuer; and

WHEREAS, the premises governed by the Issuer are located entirely within the boundaries of unincorporated Hillsborough County, Florida (the “County”) (herein, the “District Lands”); and

WHEREAS, the Issuer has determined to undertake, in one or more stages, the acquisition and construction of certain public infrastructure and facilities pursuant to the Act for the special benefit of certain District Lands (as further described within the applicable Supplemental Indenture, each herein defined as the “Project”); and

WHEREAS, the Issuer proposes to finance the cost of acquisition and construction of the Project by the issuance of one or more series of Bonds (as herein defined) pursuant to this Master Indenture.

NOW, THEREFORE, THIS MASTER INDENTURE WITNESSETH, that to provide for the issuance of Bonds (as hereinafter defined) under this Master Indenture, as supplemented from time to time by one or more Supplemental Indentures (as hereinafter defined), the security and payment of the principal, redemption or purchase price thereof (as the case may be) and interest thereon, any reimbursement due to a Credit Facility Issuer (hereinafter defined), if any, for any drawing on its Credit Facility (hereinafter defined), as required under the terms of the corresponding Credit Facility Agreement (hereinafter defined), the rights of the Owners of the Bonds of a Series (as hereinafter defined) and the performance and observance of all of the covenants contained herein and in said Bonds and in any Credit Facility Agreement for and in consideration of the mutual covenants herein contained and of the purchase and acceptance of the Bonds of a Series by the Owners thereof, from time to time, the issuance by any Credit Facility Issuer of its Credit Facility, from time to time, and of the acceptance by the Trustee of the trusts hereby created, and intending to be legally bound hereby, the Issuer hereby assigns, transfers, sets over and pledges to the Trustee and grants a lien on all of the right, title and interest of the Issuer in and to the Pledged Revenues (hereinafter defined) as security for the payment of the principal, redemption or purchase price of (as the case may be) and interest on Bonds of a Series issued hereunder and any reimbursement due to any Credit Facility Issuer for

any drawing on its Credit Facility issued with respect to any such Bonds, as required under the terms of the corresponding Credit Facility Agreement, all in the manner hereinafter provided, and the Issuer further hereby agrees with and covenants unto the Trustee as follows:

ARTICLE I DEFINITIONS

In this Master Indenture and any indenture supplemental hereto (except as otherwise expressly provided or unless the context otherwise requires) terms defined in the recitals hereto shall have the same meaning throughout this Master Indenture and all Supplemental Indentures, and in addition, the following terms shall have the meanings specified below:

“Account” shall mean any account established pursuant to this Master Indenture and all Supplemental Indentures.

“Act” shall mean the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended from time to time, and any successor statute thereto.

“Annual Budget” shall mean the Issuer’s budget of current operating and maintenance expenses for the Project for a Fiscal Year, as the same may be amended from time to time, adopted in accordance with the provisions hereof.

“Arbitrage Certificate” shall mean the certificate of the Issuer delivered at the time of issuance of a Series of Bonds setting forth the expectations of the Issuer with respect to the use of the proceeds of such Series and also containing certain covenants of the Issuer in order to achieve compliance with the Code relating to the tax-status of the Bonds.

“Authorized Denomination” shall mean, unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, a denomination of \$5,000 and integral multiples of \$5,000 in excess thereof.

“Beneficial Owner” shall mean the Person treated as the owner of Bonds for federal income tax purposes while the Bonds are registered in the name of Cede & Co., as the nominee of DTC. The Trustee is authorized to recognize the Beneficial Owners of a Series of Bonds for purposes of approvals, consents or other actions taken hereunder or under a Supplemental Indenture if beneficial ownership is proven to the satisfaction of the Trustee.

“Board” shall mean the Board of Supervisors of the Issuer.

“Bond Counsel” shall mean Akerman LLP and any other Counsel of nationally recognized standing in matters pertaining to the exclusion from gross income for federal income tax purposes of interest on obligations issued by states and their political subdivisions.

“Bondholder,” “Holder of Bonds,” “Holder,” “Bondowner” or “Owner” or any similar term shall mean any Person or Persons who shall be the registered owner of any Outstanding Bond or Bonds, as evidenced on the Bond Register of the Issuer kept by the Registrar.

“Bond Redemption Fund” shall mean the Fund so designated which is established pursuant to Section 6.06 hereof.

“Bond Register” shall have the meaning specified in Section 2.04 of this Master Indenture.

“Bonds” shall mean the Berry Bay Community Development District Special Assessment Revenue Bonds, issued in one or more Series pursuant to the provisions of this Master Indenture and Bonds subsequently issued to refund all or a portion of such aforementioned Bonds. If the Issuer determines to issue bond anticipation notes to be secured in whole or in part by a lien on the net proceeds of Bonds to be issued under this Master Indenture, the term “Bonds” shall apply to such short-term notes but only to the extent the Supplemental Indenture relating to such bond anticipation notes so provides.

“Business Day” shall mean any day other than a Saturday or Sunday or legal holiday or a day on which the office of the Issuer, or corporate office of the Trustee, the Registrar or any Paying Agent is closed, or a day on which the New York Stock Exchange is closed.

“Certified Public Accountant” shall mean a Person, who shall be Independent, appointed by the Board, actively engaged in the business of public accounting and duly certified as a certified public accountant under the laws of the State.

“Certified Resolution” or “Certified Resolution of the Issuer” shall mean a copy of one or more resolutions certified by the Secretary or an Assistant Secretary of the Issuer, under its seal, to have been duly adopted by the Board and to be in full force and effect as of the date of such certification.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Completion Date” shall have the meaning given to such term in Section 5.01 of this Master Indenture.

“Consultant” shall mean a Person, who shall be Independent, appointed by the Board, qualified to pass upon questions relating to municipal entities and having a favorable reputation for skill and experience in the financial affairs of municipal entities.

“Consultant’s Certificate” shall mean a certificate or a report prepared in accordance with then applicable professional standards duly executed by a Consultant.

“Consulting Engineer” shall mean the Independent engineer or engineering firm or corporation at the time employed by the Issuer under the provisions of Section 9.19 of this Master Indenture to perform and carry out duties imposed on the Consulting Engineer by this Master Indenture and any Supplemental Indentures. The Independent engineer or engineering firm or corporation at the time serving as the engineer to the Issuer may serve as Consulting Engineer under this Master Indenture and any Supplemental Indentures.

“Continuing Disclosure Agreement” shall mean a Continuing Disclosure Agreement, of the Issuer, and any other obligated party under the Rule, in connection with the issuance of one or more Series of Bonds hereunder, pursuant to the requirements of the Rule.

“Cost” or “Costs,” in connection with a Project or any portion thereof, shall mean all expenses which are properly chargeable thereto under Generally Accepted Accounting Principles

or which are incidental to the planning, financing, acquisition, construction, reconstruction, equipping and installation thereof, including, without limiting the generality of the foregoing:

(a) expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction of a Project;

(b) cost of surveys, estimates, plans, and specifications;

(c) cost of improvements;

(d) engineering, architectural, fiscal, legal, accounting and other professional and advisory expenses and charges;

(e) cost of all labor, materials, machinery, and equipment (including, without limitation, (i) amounts payable to contractors, builders and materialmen and costs incident to the award of contracts and (ii) the cost of labor, facilities and services furnished by the Issuer and its employees, materials and supplies purchased by the Issuer and permits and licenses obtained by the Issuer);

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

(g) financing charges;

(h) creation of initial reserve and debt service funds;

(i) working capital;

(j) interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the Board may determine and as approved by Bond Counsel;

(k) the cost of issuance of Bonds, including, without limitation, advertisements and printing;

(l) the cost of any election held pursuant to the Act and all other expenses of issuance of bonds;

(m) the discount, if any, on the sale or exchange of Bonds;

(n) amounts required to repay temporary or bond anticipation loans made to finance any costs permitted under the Act;

(o) costs of prior improvements performed by the Issuer in anticipation of the Project;

(p) costs incurred to enforce remedies against contractors, subcontractors, any provider of labor, material, services, or any other Person, for a default or breach under the corresponding contract, or in connection with any other dispute;

(q) premiums for contract bonds and insurance during construction and costs on account of personal injuries and property damage in the course of construction and insurance against the same;

(r) payments, contributions, dedications, and any other exactions required as a condition to receive any government approval or permit necessary to accomplish any District purpose;

(s) administrative expenses;

(t) taxes, assessments and similar governmental charges during construction or reconstruction of the Project;

(u) expenses of Project management and supervision;

(v) costs of effecting compliance with any and all governmental permits relating to the Project;

(w) such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of the Project or to the financing thereof; and

(x) any other “cost” or expense as provided by the Act.

In connection with the refunding or redeeming of any Bonds, “Cost” includes, without limiting the generality of the foregoing, the items listed in (d), (k), (l) and (m) above, and other expenses related to the redemption of the Bonds to be redeemed and the Redemption Price of such Bonds (and the accrued interest payable on redemption to the extent not otherwise provided for). Whenever Costs are required to be itemized, such itemization shall, to the extent practicable, correspond with the items listed above. Whenever Costs are to be paid hereunder, such payment may be made by way of reimbursement to the Issuer or any other Person who has paid the same in addition to direct payment of Costs.

“Counsel” shall mean an attorney-at-law or law firm (who may be counsel for the Issuer) not unsatisfactory to the Trustee.

“County” shall mean Hillsborough County, Florida.

“Credit Facility” shall mean any credit enhancement mechanism such as an irrevocable letter of credit, a surety bond, a policy of municipal bond insurance, a corporate or other guaranty, a purchase agreement, a credit agreement or deficiency agreement or other similar facility applicable to the Bonds, as established pursuant to a Supplemental Indenture, pursuant to which the entity providing such facility agrees to provide funds to make payment of the principal of and interest on the Bonds. Notwithstanding anything to the contrary contained in this Master Indenture, the Bonds may be issued without a Credit Facility; the decision to provide a Credit Facility in respect of any Bonds shall be within the absolute discretion of the Board.

“Credit Facility Agreement” shall mean any agreement pursuant to which a Credit Facility Issuer issues a Credit Facility.

“Credit Facility Issuer” shall mean the issuer or guarantor of any Credit Facility.

“Debt Service Fund” shall mean the Fund so designated which is established pursuant to Section 6.04 hereof.

“Debt Service Requirements,” with reference to a specified period, shall mean:

(a) interest payable on the Bonds during such period, subject to reduction for amounts held as capitalized interest in the Funds and Accounts established under this Master Indenture and any Supplemental Indentures; and

(b) amounts required to be paid into any mandatory sinking fund account with respect to the Bonds during such period; and

(c) amounts required to pay the principal of the Bonds maturing during such period and not to be redeemed prior to or at maturity through any sinking fund account.

For any Bonds that bear interest at a variable rate, the interest payable for a specified period shall be determined as if such Bonds bear interest at the maximum rate provided for in the applicable Supplemental Indenture and if no maximum rate is provided for in the Supplemental Indenture, the maximum rate shall be 10.00% per annum.

“Debt Service Reserve Fund” shall mean the Fund so designated which is established pursuant to Section 6.05 hereof.

“Debt Service Reserve Insurance Policy” shall mean the insurance policy, surety bond or other evidence of insurance, if any, deposited to the credit of the Debt Service Reserve Fund or any Account or subaccount therein in lieu of or in partial substitution for cash or securities on deposit therein, which policy, bond or the evidence of insurance constitutes an unconditional senior obligation of the issuer thereof. The issuer thereof shall be a municipal bond insurer whose obligations ranking *pari passu* with its obligations under such policy, bond or other evidence of insurance are rated at the time of deposit of such policy, bond or other evidence of insurance to the credit of the Debt Service Reserve Fund or any Account or subaccount therein in one of the three (3) highest rating categories of either Moody’s or S&P, unless otherwise approved by the Credit Facility Issuer, if any, who has issued a Credit Facility with respect to the Bonds.

“Debt Service Reserve Letter of Credit” shall mean the irrevocable, transferable letter or line of credit, if any, deposited for the credit of the Debt Service Reserve Fund or any Account or subaccount therein in lieu of or in partial substitution for cash or securities on deposit therein, which letter or line of credit constitutes an unconditional senior obligation of the issuer thereof. The issuer of such letter or line of credit shall be a banking association, bank or trust company or branch thereof whose senior debt obligations ranking *pari passu* with its obligations under such letter or line of credit are rated at the time of deposit of the letter or line of credit to the credit of the Debt Service Reserve Fund or any Account or subaccount therein in one of the two highest rating categories of both Moody’s and S&P, unless otherwise approved by the Credit Facility Issuer, if any, who has issued a Credit Facility with respect to the Bonds.

“Debt Service Reserve Requirement” shall mean, for each Series of Bonds, unless a different requirement (which requirement may be \$0) shall be specified in a Supplemental Indenture, an amount equal to the lesser of (i) the maximum annual Debt Service Requirements

for the Outstanding Bonds of such Series, (ii) 125% of the average annual Debt Service Requirements for the Outstanding Bonds of such Series, and (iii) 10% of the original proceeds (within the meaning of the Code) of the Bonds of such Series.

“Defeasance Securities” shall mean, to the extent permitted by law, (a) cash or (b) non-callable Government Obligations.

“District Lands” or “District” shall mean the premises governed by the Issuer.

“District Manager” shall mean the then District Manager or acting District Manager of the Issuer.

“Event of Default” shall mean any of the events described in Section 10.02 hereof.

“Fiscal Year” shall mean the period of twelve (12) months beginning October of each calendar year and ending on September 30 of the following calendar year, and also shall mean the period from actual execution hereof to and including the next succeeding September 30; or such other consecutive twelve-month period as may hereafter be established pursuant to as the fiscal year of the Issuer for budgeting and accounting purposes as authorized by law.

“Fitch” shall mean Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and acceptable to the Trustee.

“Fund” shall mean any fund established pursuant to this Master Indenture.

“Generally Accepted Accounting Principles” shall mean those accounting principles applicable in the preparation of financial statements of municipalities.

“Government Obligations” shall mean direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Indenture” shall mean, with respect to any Series of Bonds, this Master Indenture as supplemented by the Supplemental Indenture pursuant to which such Series of Bonds is issued.

“Independent” shall mean a Person who is not a member of the Issuer’s Board, an officer or employee of the Issuer or any developer, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is a member of the Issuer’s Board, or an officer or employee of the Issuer; provided, however, that the fact that such Person is retained regularly by or regularly transacts business with the Issuer or any developer shall not make such Person an employee within the meaning of this definition.

“Interest Account” shall mean the Account so designated, established as a separate account within the Debt Service Fund pursuant to Section 6.04 hereof.

“Interest Payment Date” shall mean, unless otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, each May 1 and November 1 commencing on the

date specified in the Certified Resolution of the Issuer or in the Supplemental Indenture pursuant to which a Series of Bonds is issued.

“Interest Period” shall mean the period from and including any Interest Payment Date to and excluding the next succeeding Interest Payment Date; provided, however, that upon final payment of any Bond at maturity or upon redemption or mandatory purchase, the Interest Period shall extend to, but not include, the date of such final payment.

“Investment Securities” shall mean and include any of the following securities:

- (i) Government Obligations;
- (ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies or such other government - sponsored agencies which may presently exist or be hereafter created; provided that, such bonds, debentures, notes or other evidences of indebtedness are fully guaranteed as to both principal and interest by the Government National Mortgage Association (including participation certificates issued by such association); Fannie Mae (including participation certificates issued by such entity); Federal Home Loan Banks; Federal Farm Credit Banks; Tennessee Valley Authority; Farmers Home Administration; Student Loan Marketing Association; Federal Home Loan Mortgage Corporation and repurchase agreements secured by such obligations, which funds are rated in the highest categories for such funds by both Moody’s and S&P at the time of purchase;
- (iii) Both (A) shares of a diversified open-end management investment company (as defined in the Investment Company Act of 1940) or a regulated investment company (as defined in Section 851(a) of the Code) that is a money market fund that is rated in the highest rating category for such funds by Moody’s and S&P, and (B) shares of money market mutual funds that invest only in the obligations described in (i) and (ii) above;
- (iv) Money market deposit accounts, time deposits, and certificates of deposits issued by commercial banks, savings and loan associations or mutual savings banks whose short-term obligations are rated, at the time of purchase, in one of the two highest rating categories, without regard to gradation, by Moody’s and S & P; and
- (v) Commercial paper (having maturities of not more than 270 days) rated, at the time of purchase, in one of the two highest rating categories, without regard to gradation, by Moody’s and S & P;

Under all circumstances, the Trustee shall be entitled to conclusively rely that any investment directed in writing by the Issuer is permitted under the Indenture and is a legal investment for funds of the Issuer.

“Issuer” shall mean the Berry Bay Community Development District.

“Major Non-Recurring Expense” shall mean the cost of major replacement or reconstruction of the Project, or any part thereof, the cost of major repairs, renewals or

replacements, the provision of a reserve for the payment of insurance premiums not due on an annual or more frequent basis, and the cost of studies, surveys, estimates and investigations in connection with any of the foregoing.

“Majority Owners” shall mean the Beneficial Owners of more than fifty percent (50%) of the aggregate principal amount of the applicable Series of Bonds then Outstanding.

“Master Indenture” shall mean, this Master Trust Indenture dated as of _____ 1, 2020 by and between the Issuer and the Trustee, as amended and or supplemented in accordance with the provisions of Article XIII hereof.

“Moody’s” shall mean Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and acceptable to the Trustee.

“Officers’ Certificate” or “Officer’s Certificate” shall mean a certificate, duly executed by a Responsible Officer and delivered to the Trustee.

“Outstanding,” in connection with a Series of Bonds, shall mean, as of the time in question, all Bonds of such Series authenticated and delivered under the Indenture, except:

(a) all Bonds theretofore cancelled or required to be cancelled under Section 2.07 hereof;

(b) Bonds for the payment, redemption or purchase of which moneys and/or Defeasance Securities, the principal of and interest on which, when due, will provide sufficient moneys to fully pay such Bonds in accordance with Article XIV hereof, shall have been or shall concurrently be deposited with the Trustee; provided that, if such Bonds are being redeemed, the required notice of redemption shall have been given or provision shall have been made therefor, and that if such Bonds are being purchased, there shall be a firm commitment for the purchase and sale thereof; and

(c) Bonds in substitution for which other Bonds have been authenticated and delivered pursuant to Article II hereof.

In determining whether the Holders of a requisite aggregate principal amount of Bonds Outstanding of a Series have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of the Indenture, Bonds of such Series which are known by the Trustee to be held by or on behalf of the Issuer shall be disregarded for the purpose of any such determination, unless all of the Bonds of such Series are held by or on behalf of the Issuer; provided, however, this provision does not affect the right of the Trustee to deal in Bonds as set forth in Section 11.09 hereof.

“Participating Underwriter” shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

“Paying Agent” shall mean initially, U.S. Bank National Association and thereafter any successor thereto appointed in accordance with Section 11.20 of this Master Indenture.

“Person” shall mean any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization, governmental body, political subdivision, municipality, municipal authority or any other group or organization of individuals.

“Pledged Revenues” shall mean, unless otherwise provided by Supplemental Indenture with respect to a Series of Bonds, with respect to each Series of Bonds Outstanding, (a) all revenues received by the Issuer from Special Assessments levied and collected on all or a portion of the District Lands, with respect to the Project or portion thereof financed by such Series of Bonds, including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such Special Assessments or from the issuance and sale of tax certificates with respect to such Special Assessments, and (b) all moneys on deposit in the Funds and Accounts established under the Indenture allocated to such Series of Bonds; provided, however, that Pledged Revenues shall not include any moneys transferred to the Rebate Fund, or investment earnings thereon.

“Prepayment” shall mean the payment by any owner of Property of the amount of Special Assessments encumbering its property, in whole or in part, prior to its scheduled due date.

“Project” shall mean with respect to any Series of Bonds, the design, acquisition, construction equipping and/or improvement of certain public infrastructure and public facilities; and related incidental costs, all as more specifically described in the Supplemental Indenture relating to such Series of Bonds; provided that the Project shall specially benefit all of the District Lands on which Special Assessments to secure such Series of Bonds have been levied.

“Property Appraiser” shall mean the property appraiser of the County.

“Property Appraiser and Tax Collector Agreement” shall mean the Property Appraiser and Tax Collector Agreement described in Section 9.04 hereof.

“Rebate Fund” shall mean the Fund so designated, which is established pursuant to Section 6.11 of this Master Indenture.

“Record Date” shall mean, as the case may be, the applicable Regular or Special Record Date.

“Redemption Price” shall mean the principal amount of any Bond of a Series plus the applicable premium, if any, payable upon redemption thereof pursuant to the Indenture.

“Registrar” shall mean initially U.S. Bank National Association, which entity shall have the responsibilities set forth in Section 2.04 of this Master Indenture, and thereafter any successor thereto appointed in accordance with Section 11.20 of this Master Indenture.

“Regular Record Date” shall mean the fifteenth day (whether or not a Business Day) of the calendar month next preceding each Interest Payment Date.

“Regulatory Body” shall mean and include (a) the United States of America and any department of or corporation, agency or instrumentality heretofore or hereafter created,

designated or established by the United States of America, (b) the State, any political subdivision thereof and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the State, (c) the County and any department, agency or instrumentality heretofore or hereafter created, designated or established by the County, and (d) any other public body, whether federal, state or local or otherwise having regulatory jurisdiction and authority over the Issuer.

“Responsible Officer” shall mean any member of the Board or any other officer of the Issuer, including the Secretary, the District Manager or other person designated by Certified Resolution of the Issuer, a copy of which shall be on file with the Trustee, to act for any of the foregoing, either generally or with respect to the execution of any particular document or other specific matter, and when used with respect to the Trustee, any vice president, assistant vice president, senior associate or other officer of the Trustee within the corporate trust office specified in Section 15.06 (or any successor corporate trust office) having direct responsibility for the administration of this Indenture.

“Revenue Fund” shall mean the Fund so designated which is established pursuant to Section 6.03 hereof.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“S&P” shall mean S & P Global Ratings, a corporation organized and existing under the laws of the State of New York, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and acceptable to the Trustee.

“Series” shall mean all of the Bonds authenticated and delivered at one time on original issuance and pursuant to any Certified Resolution of the Issuer authorizing such Bonds as a separate Series of Bonds, or any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article II hereof and the applicable Supplemental Indenture, regardless of variations in maturity, interest rate or other provisions; provided, however, two or more Series of Bonds may be issued simultaneously under the same Supplemental Indenture if designated as separate Series of Bonds by the Issuer upon original issuance. Two or more Series or sub-Series of Bonds may be issued simultaneously under separate Supplemental Indentures, but under this Master Indenture. As may be provided by subsequent proceedings of the Issuer, one or more Series of Bonds or sub-Series of Bonds, whether issued at the same time or not, may be separately secured by Special Assessments imposed pursuant to separate assessment proceedings. Such Bonds or sub-Series of Bonds which are secured by separate Special Assessments will not be issued as parity bonds even if issued at the same time.

“Series Account” shall mean any Account established as to a particular Series of Bonds.

“Sinking Fund Account” shall mean the Account so designated, established as a separate account within the Debt Service Fund pursuant to Section 6.04 hereof.

“Special Assessments” shall mean (a) the net proceeds derived from the levy and collection of “special assessments,” as provided for in Sections 190.011(14) and 190.022 of the Act against District Lands that are subject to assessment as a result of a particular Project or any portion thereof, and (b) the net proceeds derived from the levy and collection of “benefit special assessments,” as provided for in Section 190.021(2) of the Act, against the lands within the District that are subject to assessment as a result of a particular Project or any portion thereof, and in the case of both “special assessments” and “benefit special assessments,” including the interest and penalties on such assessments, pursuant to all applicable provisions of the Act and Chapter 170, Florida Statutes, and Chapter 197, Florida Statutes (and any successor statutes thereto), including, without limitation, any amount received from any foreclosure proceeding for the enforcement of collection of such assessments or from the issuance and sale of tax certificates with respect to such assessments, less (to the extent applicable) the fees and costs of collection thereof payable to the Tax Collector and less certain administrative costs payable to the Property Appraiser pursuant to the Property Appraiser and Tax Collector Agreement. “Special Assessments” shall not include “special assessments” levied and collected by the Issuer under Section 190.022 of the Act for maintenance purposes or “maintenance special assessments” levied and collected by the Issuer under Section 190.021(3) of the Act.

“Special Record Date” shall mean such date as shall be fixed for the payment of defaulted interest on the Bonds in accordance with Section 2.01 hereof.

“State” shall mean the State of Florida.

“Supplemental Indenture” and “indenture supplemental hereto” shall mean any indenture amending or supplementing this Master Indenture which may be entered into in accordance with the provisions of this Master Indenture.

“Tax Collector” shall mean the tax collector of the County.

The words “hereof,” “herein,” “hereto,” “hereby,” and “hereunder” (except in the form of Bond), refer to the entire Master Indenture.

Every “request,” “requisition,” “order,” “demand,” “application,” “notice,” “statement,” “certificate,” “consent,” or similar action hereunder by the Issuer shall, unless the form or execution thereof is otherwise specifically provided, be in writing signed by the Responsible Officer of the Issuer.

All words and terms importing the singular number shall, where the context requires, import the plural number and vice versa.

[END OF ARTICLE I]

ARTICLE II THE BONDS

Section 2.01 Amounts and Terms of Bonds; Details of Bonds. The Issuer is hereby authorized to issue in one or more Series pursuant to the terms and conditions of this Master Indenture, its obligations to be known as “Berry Bay Community Development District Special Assessment Revenue Bonds, Series [to be designated]” (the “Bonds”). The Bonds shall be issued in Authorized Denominations unless otherwise provided in a Supplemental Indenture and within each Series shall be numbered consecutively from R-1 and upwards. All Bonds shall be issued only upon satisfaction of the conditions set forth in Article III hereof; and the Trustee shall, at the Issuer’s request, authenticate such Bonds and deliver them as specified in such request.

Each Bond shall be dated, shall have such Interest Payment Dates, shall bear interest from such date or dates and at such rate or rates until the maturity thereof, payable on such Interest Payment Dates, and shall be stated to mature (subject to the right of prior redemption), all as provided in, or pursuant to, a Supplemental Indenture.

Both the principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender on the respective dates of payment thereof for the payment of public and private debts. Unless otherwise provided in Section 2.11 hereof or in a Supplemental Indenture, the principal of all Bonds shall be payable at the designated corporate trust office of the Paying Agent upon the presentation and surrender of such Bonds as the same shall become due and payable.

Except to the extent otherwise provided in Section 2.11 hereof or in a Supplemental Indenture, interest on any Bond is payable on any Interest Payment Date by check or draft mailed on the Interest Payment Date to the person in whose name that Bond is registered at the close of business on the Regular Record Date for such Interest Payment Date, at his address as it appears on the Bond Register. The Bonds shall bear interest from the Interest Payment Date next preceding the date on which they are authenticated unless authenticated on an Interest Payment Date in which event they shall bear interest from such Interest Payment Date, or unless authenticated before the first Interest Payment Date in which event they shall bear interest from their date; provided, however, that if a Bond is authenticated between a Record Date and the next succeeding Interest Payment Date, such Bond shall bear interest from such succeeding Interest Payment Date; provided further, however, that if at the time of authentication of any Bond interest thereon is in default, such Bond shall bear interest from the date to which interest has been paid or if interest has not been paid then from the Dated Date of the Bonds. Any interest on any Bond which is payable, but is not punctually paid or provided for on any Interest Payment Date (hereinafter called “Defaulted Interest”) shall be paid to the Owner in whose name the Bond is registered at the close of business on a Special Record Date to be fixed by the Trustee, such date to be not more than fifteen (15) nor less than ten (10) days prior to the date of proposed payment. The Trustee shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class, postage-prepaid, to each Owner of record as of the fifth (5th) day prior to such mailing, at his address as it appears in the Bond Register on the date of such mailings. The foregoing notwithstanding, but subject to the procedures set forth in Section 2.11 hereof, any Owner of Bonds of a Series in an aggregate principal amount of at least \$1,000,000 shall be entitled to have interest paid by wire transfer to such Owner to the bank account number on file with the Trustee and Paying Agent, upon

requesting the same in a writing received by the Trustee and Paying Agent at least fifteen (15) days prior to the relevant Record Date, which writing shall specify the bank, which shall be a bank within the continental United States, and bank account number to which interest payments are to be wired. Any such request for interest payments by wire transfer shall remain in effect until rescinded or changed, in a writing delivered by the Owner to the Trustee and Paying Agent, and any such rescission or change of wire transfer instructions must be received by the Trustee and Paying Agent at least fifteen (15) days prior to the relevant Record Date. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, interest on the Bonds will be computed on the basis of a 360-day year of twelve 30-day months. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, interest on overdue principal and, to the extent lawful, on overdue interest will be payable at the numerical rate of interest borne by such Bonds on the day before the default occurred.

The Trustee is hereby constituted and appointed as Paying Agent for the Bonds.

Section 2.02 Execution. The Bonds shall be executed by the manual or facsimile signature of the Chairperson or Vice Chairperson of the Issuer, and the corporate seal of the Issuer shall appear thereon (which may be in facsimile) and shall be attested by the manual or facsimile signature of its Secretary or Assistant Secretary. Bonds executed as above provided may be issued and shall, upon request of the Issuer, be authenticated by the Trustee, notwithstanding that one or both of the officers of the Issuer whose signatures appear on such Bonds shall have ceased to hold office at the time of issuance or authentication or shall not have held office at the date of the Bonds.

Section 2.03 Authentication. No Bond shall be valid until the certificate of authentication shall have been duly executed by the Trustee, and such authentication shall be proof that the Bondholder is entitled to the benefit of the trust hereby created.

Section 2.04 Registration and Registrar. The Trustee is hereby constituted and appointed as the Registrar for the Bonds. The Registrar shall act as registrar and transfer agent for the Bonds. The Issuer shall cause to be kept at an office of the Registrar a register (herein sometimes referred to as the “Bond Register” or “Register”) in which, subject to the provisions set forth in Section 2.08 below and such other regulations as the Issuer and Registrar may prescribe, the Issuer shall provide for the registration of the Bonds and for the registration of transfers and exchanges of such Bonds. The Trustee shall notify the Issuer in writing of the specific office location (which may be changed from time to time, upon similar notification) at which the Bond Register is kept.

Section 2.05 Mutilated, Destroyed, Lost or Stolen Bonds. If any Bond shall become mutilated, the Issuer shall execute and the Trustee shall thereupon authenticate and deliver a new Bond of like Series, tenor and denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of such mutilated Bond for cancellation, and the Issuer and the Trustee may require reasonable indemnity therefor. If any Bond shall be reported lost, stolen or destroyed, evidence as to the ownership and the loss, theft or destruction thereof shall be submitted to the Issuer and the Trustee; and if such evidence shall be satisfactory to both and indemnity satisfactory to both shall be given, the Issuer shall execute, and thereupon the Trustee shall authenticate and deliver a new Bond of like Series, tenor and denomination. The cost of providing any substitute Bond under the provisions of this Section shall be borne by the Bondholder for whose benefit such substitute Bond is provided. If any such mutilated, lost,

stolen or destroyed Bond shall have matured or be about to mature, the Issuer may, with the consent of the Trustee, pay to the Owner the principal amount of and accrued interest on such Bond upon the maturity thereof and compliance with the aforesaid conditions by such Owner, without the issuance of a substitute Bond therefor.

Every substituted Bond issued pursuant to this Section 2.05 shall constitute an additional contractual obligation of the Issuer, whether or not the Bond alleged to have been destroyed, lost or stolen shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Master Indenture and applicable Supplemental Indenture equally and proportionately with any and all other Bonds of such same Series duly issued hereunder and under such Supplemental Indenture.

All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds, and shall preclude any and all other rights or remedies with respect to the replacement or payment of negotiable instruments, investments or other securities without their surrender.

Section 2.06 Temporary Bonds. Pending preparation of definitive Bonds, or by agreement with the original purchasers of all Bonds, the Issuer may issue and, upon its request, the Trustee shall authenticate in lieu of definitive Bonds one or more temporary printed or typewritten Bonds of substantially the tenor recited above. Upon request of the Issuer, the Trustee shall authenticate definitive Bonds in exchange for and upon surrender of an equal principal amount of temporary Bonds. Until so exchanged, temporary Bonds shall have the same rights, remedies and security hereunder as definitive Bonds. So long as Cede & Co., or any other nominee of DTC is the registered Owner of the Bonds, the definitive Bonds shall be in typewritten form.

Section 2.07 Cancellation and Destruction of Surrendered Bonds. All Bonds surrendered for payment or redemption and all Bonds surrendered for exchange shall, at the time of such payment, redemption or exchange, be promptly transferred by the Registrar or the Paying Agent to, and cancelled and destroyed by, the Trustee in accordance with its retention policy then in effect.

Section 2.08 Registration, Transfer and Exchange. As provided in Section 2.04 hereof, the Issuer shall cause a Bond Register in respect of the Bonds to be kept at the designated office of the Registrar.

Upon surrender for registration of transfer of any Bond at the designated office of the Registrar, and upon compliance with the conditions for the transfer of Bonds set forth in this Section 2.08, the Issuer shall execute and the Trustee (or Registrar as described in Section 2.03 and Section 2.04 hereof) shall authenticate and deliver, in the name of the designated transferees, one or more new Bonds of a like aggregate principal amount and of the same Series and maturity.

At the option of the Bondholder, Bonds may be exchanged for other Bonds of a like aggregate principal amount and of the same Series and maturity, upon surrender of the Bonds to be exchanged at any such office of the Registrar. Whenever any Bonds are so surrendered for exchange, the Issuer shall execute and the Trustee (or Registrar as described in Section 2.03 and

Section 2.04 hereof) shall authenticate and deliver the Bonds which the Bondholder making the exchange is entitled to receive.

All Bonds issued upon any transfer or exchange of Bonds shall be valid obligations of the Issuer, evidencing the same debt and entitled to the same benefits under this Master Indenture and applicable Supplemental Indenture as the Bonds of such Series surrendered upon such transfer or exchange.

Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Trustee, Paying Agent or the Registrar, duly executed by the Bondholder or his attorney duly authorized in writing.

Transfers and exchanges shall be made without charge to the Bondholder, except that the Issuer or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds.

Neither the Issuer nor the Registrar on behalf of the Issuer shall be required (i) to issue, transfer or exchange any Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Bonds selected for redemption and ending at the close of business on the day of such mailing, or (ii) to transfer or exchange any Bond so selected for redemption in whole or in part.

Section 2.09 Persons Deemed Owners. The Issuer, the Trustee, any Paying Agent, or the Registrar shall deem and treat the person in whose name any Bond is registered as the absolute Owner thereof (whether or not such Bond shall be overdue and notwithstanding any notation of ownership or other writing thereon made by anyone other than the Issuer, the Trustee, any Paying Agent or the Registrar) for the purpose of receiving payment of or on account of the principal or Redemption Price of and interest on such Bond, and for all other purposes, and the Issuer, the Trustee, any Paying Agent, and the Registrar shall not be affected by any notice to the contrary. All such payments so made to any such Owner, or upon his order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such Bond.

Section 2.10 Limitation on Incurrence of Certain Indebtedness. The Issuer will not, unless permitted by the applicable Supplemental Indenture, issue Bonds of any Series secured by a parity lien on the same Pledged Revenues pledged to any Series of Outstanding Bonds, provided that the Issuer may enter into agreements with issuers of Credit Facilities which involve liens on Pledged Revenues on a parity with that of the Bonds or portion thereof which is supported by such Credit Facilities.

Section 2.11 Qualification for The Depository Trust Company. To the extent provided in a Supplemental Indenture or authorized and directed by a Resolution of the Issuer authorizing the issuance of a Series of Bonds, the Trustee shall be authorized to enter into agreements with The Depository Trust Company, New York, New York (“DTC”) and other depository trust companies, including, but not limited to, agreements necessary for wire transfers of interest and principal payments with respect to the Bonds, utilization of electronic book entry data received from DTC, and other depository trust companies in place of actual delivery of Bonds and provision of notices with respect to Bonds registered by DTC and other depository

trust companies (or any of their designees identified to the Trustee) by overnight delivery, courier service, telegram, telecopy or other similar means of communication.

As long as the Bonds are held in book-entry only form, CEDE & Co., shall be considered the registered owner for all purposes hereof and the Bonds shall not be required to be presented for payment.

So long as there shall be maintained a book-entry-only system with respect to a Series of Bonds, the following provisions shall apply:

Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, each Series of Bonds shall initially be registered in the name of Cede & Co. as nominee for DTC, which will act initially as securities depository for the Bonds and so long as the Bonds are held in book-entry-only form, Cede & Co. shall be considered the registered owner for all purposes hereof. On original issue, such Bonds shall be deposited with DTC, which shall be responsible for maintaining a book-entry-only system for recording the ownership interest of its participants ("DTC Participants") and other institutions that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly ("Indirect Participants"). The DTC Participants and Indirect Participants will be responsible for maintaining records with respect to the beneficial ownership interests of individual purchasers of the Bonds ("Beneficial Owners").

Principal and interest on the Bonds registered in the name of Cede & Co. prior to and at maturity shall be payable directly to Cede & Co. in care of DTC. Disbursal of such amounts to DTC Participants shall be the responsibility of DTC. Payments by DTC Participants to Indirect Participants, and by DTC Participants and Indirect Participants to Beneficial Owners shall be the responsibility of DTC Participants and Indirect Participants and not of DTC, the Trustee or the Issuer.

The Bonds registered in the name of Cede & Co. shall initially be issued in the form of one fully registered Bond for each maturity of each Series registered in the name of Cede & Co. and shall be held in such form until maturity. Individuals may purchase beneficial interests in Authorized Denominations in book-entry-only form, without certificated Bonds, through DTC Participants and Indirect Participants.

DURING THE PERIOD FOR WHICH CEDE & CO. IS REGISTERED OWNER OF THE BONDS, ANY NOTICES TO BE PROVIDED TO ANY REGISTERED OWNER WILL BE PROVIDED TO CEDE & CO. DTC SHALL BE RESPONSIBLE FOR NOTICES TO DTC PARTICIPANTS AND DTC PARTICIPANTS SHALL BE RESPONSIBLE FOR NOTICES TO INDIRECT PARTICIPANTS, AND DTC PARTICIPANTS AND INDIRECT PARTICIPANTS SHALL BE RESPONSIBLE FOR NOTICES TO BENEFICIAL OWNERS.

The Issuer and the Trustee, if appropriate, shall enter into a blanket letter of representations with DTC providing for such book-entry-only system. Such agreement may be terminated at any time by either DTC or the Issuer. In the event of such termination, the Issuer shall select another securities depository. If the Issuer does not replace DTC, the Trustee will register and deliver to the Beneficial Owners replacement Bonds in the form of fully registered Bonds in accordance with the instructions from Cede & Co.

In the event DTC, any successor of DTC or the Issuer elects to discontinue the book-entry only system in conformity with the requirements of DTC, the Trustee shall deliver bond certificates in accordance with the instructions from DTC or its successor and after such time Bonds may be exchanged for an equal aggregate principal amount of Bonds in other Authorized Denominations and of the same maturity and Series upon surrender thereof at the designated corporate trust office of the Trustee.

[END OF ARTICLE II]

ARTICLE III ISSUE OF BONDS

Section 3.01 Issue of Bonds. Subject to the provisions of Section 2.01 hereof, the Issuer may issue one or more Series of Bonds hereunder and under Supplemental Indentures from time to time for the purpose of financing the Cost of acquisition or construction of a Project or to refund all or a portion of a Series of Bonds (and to pay the costs of the issuance of such Bonds and to pay the amounts required to be deposited with respect to such Bonds in the Funds and Accounts established under the Indenture). In connection with the issuance of a Series of Bonds the Trustee shall, at the request of the Issuer, authenticate the Bonds and deliver or cause them to be authenticated and delivered, as specified in the request, but only upon receipt of:

1) a Certified Resolution of the Issuer (a) approving a Supplemental Indenture under which the Series of Bonds are to be issued; (b) providing the terms of the Bonds and directing the payments to be made into the Funds and Accounts in respect thereof as provided in Article VI hereof; (c) authorizing the execution and delivery of the Series of Bonds to be issued; and (d) if the purpose is to effectuate a refunding, authorizing the redemption, if any, of the Bonds to be refunded and the defeasance thereof, and the execution and delivery of an escrow agreement, if applicable, and other matters contained in Section XIV hereof;

2) a written opinion or opinions of Counsel to the Issuer, addressed to Trustee substantially to the effect that (a) based on certificate of Issuer Engineer, the Issuer has good right and lawful authority under the Act to undertake any Project, subject to obtaining such licenses, orders or other authorizations as are, at the date of such opinion, required to be obtained from any agency or regulatory body; (b) that the Special Assessment proceedings have been taken in accordance with Florida law and that the Issuer has taken all action necessary to levy and impose the Special Assessments; and (c) that the Special Assessments are legal, valid, and binding liens upon the property against which the Special Assessments are made, coequal with the lien of all state, county, Issuer and municipal ad valorem taxes and superior in priority to all other liens, titles and claims against said property then existing or thereafter created, until paid;

3) for any Series of Bonds issued to finance the Cost of acquisition or construction of a Project, a Consulting Engineer's certificate addressed to the Issuer and the Trustee in connection with the issuance of Bonds any proceeds of which will be used to finance Costs of a Project setting forth the estimated cost of the Project, and in the case of an acquisition by the Issuer of all or a portion of the Project that has been completed, stating, substantially to the effect that in the signer's opinion, (a) that the portion of the Project improvements to be acquired from the proceeds of such Bonds have been completed in accordance with the plans and specifications therefor; (b) the Project improvements are constructed in a sound workmanlike manner and in accordance with industry standards; (c) the purchase price to be paid by the Issuer for the Project improvements is no more than the lesser of (i) the fair market value of such improvements and (ii) the actual Cost of construction of such improvements;

and (d) the plans and specifications for the Project improvements have been approved by all Regulatory Bodies required to approve them or such approval can reasonably be expected to be obtained;

4) a copy of the Supplemental Indenture for such Bonds, certified by the Secretary or Assistant Secretary of the Issuer as being a true and correct copy thereof;

5) the proceeds of the sale of such Bonds together with any required equity deposit by any developer entity or any other legally available moneys;

6) any Credit Facility authorized by the Issuer in respect to such Bonds;

7) one or more Certified Resolutions of the Issuer relating to the levy of Special Assessments in respect of the Project, and evidencing that the Issuer has undertaken and, to the extent then required under applicable law, completed all necessary proceedings, including, without limitation, the approval of assessment rolls, the holding of public hearings, the adoption of resolutions and the establishment of all necessary collection procedures, in order to levy and collect Special Assessments upon the District Lands in an amount sufficient to pay the Debt Service Requirement on the Bonds to be issued;

8) an executed opinion of Bond Counsel;

9) a written direction of the Issuer to the Trustee to authenticate and deliver such Bonds;

10) a copy of a final judgment of validation and a Certificate of No Appeal with respect to the Bonds that are subject to validation or an opinion of Counsel that the Bonds are not subject to validation;

11) in the case of the issuance of a refunding Series of Bonds, an Officer's Certificate of the Issuer or a report of an accounting or similar firm stating (a) the Bonds to be refunded; (b) any other amounts available for such purpose; (c) that the proceeds of the issue plus the other amounts, if any, stated to be available for the purpose will be sufficient to refund the Bonds to be refunded in accordance with the refunding plan and in compliance with Article XIV of this Master Indenture, including, without limitation, to pay the Costs of issuance of such Bonds, and (d) that notice of redemption, if applicable, of the Bonds to be refunded has been duly given or that provision has been made therefor, as applicable;

12) in the case of the issuance of a refunding Series of Bonds, a written opinion of Bond Counsel to the effect that the issuance of such Bonds will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any Bonds issued pursuant to the Indenture (to

the extent that upon original issuance thereof such Bonds were issued as Bonds the interest on which is excludable from gross income for federal income tax purposes); and

13) such other documents, certifications and opinions as shall be required by the Supplemental Indenture, by the Participating Underwriter or the initial purchaser of a Series of Bonds or by the Issuer or the Trustee upon advice of counsel.

At the option of the Issuer, any or all of the matters required to be stated in the Certified Resolution described in (1) above may instead be stated in a Supplemental Indenture, duly approved by a Certified Resolution of the Issuer. Execution of a Series of the Bonds by the Issuer and payment of the net purchase price of a Series of Bonds upon their issuance shall be conclusive evidence of satisfaction of conditions precedent, set forth in this Article, as to the Issuer, the Participating Underwriter and/or the initial purchaser of such Series of Bonds.

[END OF ARTICLE III]

ARTICLE IV CONSTRUCTION OR ACQUISITION OF PROJECT

Section 4.01 Project to Conform to Plans and Specifications; Changes. The Issuer will proceed to complete any Project or portion thereof for which any Series of Bonds is being issued in accordance with the plans and specifications therefor, as such plans and specifications may be amended from time to time, and subject to the specific requirements of the Supplemental Indenture for such Series of Bonds.

Section 4.02 Compliance Requirements. The Issuer will comply with all present and future laws, acts, rules, regulations, orders and requirements lawfully made and applicable in fact to any acquisition or construction hereby undertaken and shall obtain all necessary approvals under federal, state and local laws, acts, rules and regulations necessary for the construction or acquisition, completion and operation of any Project or portion thereof for which any Series of Bonds is being issued and shall complete any Project or portion thereof in conformity with such approvals, laws, rules and regulations.

[END OF ARTICLE IV]

ARTICLE V ACQUISITION AND CONSTRUCTION FUND

Section 5.01 Acquisition and Construction Fund. The Trustee shall establish an Acquisition and Construction Fund into which shall be deposited the proceeds from each Series of Bonds issued under the Indenture (unless otherwise specified herein or in the applicable Supplemental Indenture for a Series of Bonds) and from which Costs may be paid as set forth herein and in the applicable Supplemental Indenture. Unless otherwise specified in the applicable Supplemental Indenture, a separate Series Account shall be established in the Acquisition and Construction Fund with respect to each Series of Bonds issued hereunder and the proceeds of each Series of Bonds (other than Bonds issued to refund all or a portion of the Bonds) shall be deposited into the corresponding Series Account in the Acquisition and Construction Fund. The amounts in any Series Account of the Acquisition and Construction Fund, until applied as hereinafter provided, shall be held for the security of the Series of Bonds hereunder in respect of which such Series Account was established. Separate subaccounts within any Series Account of the Acquisition and Construction Fund shall be maintained by the Trustee in respect of each Series of Bonds upon request of the Issuer whenever, in the opinion of the Issuer, it is appropriate to have a separate accounting in respect of the Costs of any designated portion of the Project including, but not limited to, a costs of issuance subaccount. Payments shall be made from the appropriate Series Account of the Acquisition and Construction Fund to pay any unpaid Costs of Issuance of the Series of Bonds in question, including without limitation, legal, engineering, and consultants' fees and to pay amounts to be reimbursed to the Issuer for Costs advanced, and thereafter to pay Costs of planning, financing, acquisition, construction, reconstruction, equipping and installation of the Project or portion thereof.

(a) *Deposits.* In addition to the deposit of amounts received by the Trustee on the date of issuance of each Series of Bonds, the Issuer shall pay or cause to be paid to the Trustee, for deposit into the Series Account of the Acquisition and Construction Fund, as promptly as practicable, the following amounts:

- (i) Subject to the provisions of Section 9.22 hereof, payments made to the Issuer from the sale, lease or other disposition of the Project or any portion thereof; and
- (ii) Subject to the provisions of Section 9.12 hereof, the balance of insurance proceeds with respect to the loss or destruction of the Project or any portion thereof; and

Amounts in the applicable Series Account of the Acquisition and Construction Fund shall be applied to pay the Cost of the Project or a portion thereof, as applicable, pertaining to the Series of Bonds in question; provided, however, that if any amounts remain in the Series Account of the Acquisition and Construction Fund after the Completion Date (as defined in paragraph (c) below) of the Project or portion thereof pertaining to the Series of Bonds in question, and if such amounts are not reserved for payment of any remaining part of the Cost of the Project, such amounts shall be transferred to the applicable Series Account of the Bond Redemption Fund for application to the redemption of Bonds of the Series to which such proceeds relate, as set forth in Section 6.06 hereof or as otherwise set forth in the applicable Supplemental Indenture.

(b) *Disbursements.* Unless provided otherwise in a Supplemental Indenture, all payments from the Acquisition and Construction Fund shall be paid in accordance with the provisions of this subsection. Moneys in the appropriate Series Account of the Acquisition and Construction Fund shall be disbursed by check, voucher, order, draft, certificate or warrant signed by any one or more officers or employees of the Trustee legally authorized to sign such items or by wire transfer to an account specified by the payee upon satisfaction of the conditions for disbursement set forth in this subsection (b). Before any such payment shall be made, the Issuer shall file with the Trustee a fully executed requisition, signed by a Responsible Officer and, except for payments of cost of issuance, a certificate of the Consulting Engineer signed by a Consulting Engineer in the form attached hereto as Exhibit A. Upon receipt of each such requisition and accompanying certificate, the Trustee shall promptly withdraw from the appropriate Series Account of the Acquisition and Construction Fund and pay to the person, firm or corporation named in such requisition the amount designated in such requisition. All requisitions and certificates received by the Trustee pursuant to this Section 5.01 shall be retained in the possession of the Trustee, subject at all reasonable times to the inspection of the Issuer, the Consulting Engineer, the Owner of any Bonds, and the agents and representatives thereof. The Trustee shall have no duty to verify that the disbursement of funds pursuant to a requisition is for a purpose for which payment may be made hereunder and the Trustee may conclusively rely that a properly signed requisition is, on its face, sufficient to disburse funds from the Acquisition and Construction Account.

(c) *Completion of Project.* On the date of completion of the Project or if sufficient moneys are retained in the appropriate Series Account of the Acquisition and Construction Fund, to complete the Cost of the Project, in either case, as evidenced by the delivery to the Trustee of a Certificate of the Consulting Engineer and adoption of a resolution by the Board accepting the Project as provided by Section 170.09, Florida Statutes, as amended (the "Completion Date"), the balance in the appropriate Series Account of the Acquisition and Construction Fund not reserved by the Issuer for the payment of any remaining part of the Cost of the Project shall be transferred by the Trustee to, and deposited in, the applicable Series Account of the Bond Redemption Fund and applied as provided in Section 6.06 hereof and in the applicable Supplemental Indenture.

[END OF ARTICLE V]

ARTICLE VI
SPECIAL ASSESSMENTS;
APPLICATION THEREOF TO FUNDS AND ACCOUNTS

Section 6.01 Special Assessments; Lien of Indenture on Pledged Revenues. The Issuer hereby covenants that it shall levy Special Assessments, and, unless provided otherwise with respect to a Series of Bonds, evidence and certify the same to the Tax Collector or shall cause the Property Appraiser to certify the same on the tax roll to the Tax Collector for collection by the Tax Collector and enforcement by the Tax Collector or the Issuer, pursuant to the Act, Chapter 170 or Chapter 197, Florida Statutes, or any successor statutes, as applicable, to the extent and in the amount necessary to pay the Debt Service Requirement on Bonds issued and Outstanding hereunder.

The Issuer shall within five (5) Business Days of the receipt thereof, pay to the Trustee for deposit in the Series Account of the Revenue Fund established under Section 6.03 hereof all Special Assessments received by the Issuer from the levy thereof on the District Lands subject to assessments for the payment of the related Series of Bonds; provided, however, that amounts received as prepayments of Special Assessments shall be deposited directly into the applicable Series Account within the Bond Redemption Fund established hereunder or in any account thereof established pursuant to the applicable Supplemental Indenture. The Issuer shall notify the Trustee at the time of deposit of any amounts received as prepayments of Special Assessments and shall identify the related Series of Bonds. If necessary, the Issuer shall direct the landowner making such prepayment to specify what Series of Bonds such prepayments relate.

There are hereby pledged for the payment of the principal or Redemption Price of and interest on all Bonds of each Series issued and Outstanding under the Indenture and all reimbursements due to any Credit Facility Issuer for any drawing with respect to such Series of Bonds on its Credit Facility, including, without limitation, interest thereon, as required under the terms of the applicable Credit Facility Agreement, the Pledged Revenues; provided, however, that unless otherwise specifically provided herein or in a Supplemental Indenture relating to a Series of Bonds with respect to the Pledged Revenues securing such Series of Bonds, the Pledged Revenues securing a Series of Bonds shall secure only such Series of Bonds and any Bonds issued on a parity therewith and shall not secure any other Bonds or Series of Bonds. The Pledged Revenues shall immediately be subject to the lien and pledge of the Indenture without any physical delivery hereof or further act; provided, however, that the lien and pledge of the Indenture shall not apply to any moneys transferred by the Trustee to the Rebate Fund. The foregoing notwithstanding, to the extent provided in the Supplemental Indenture authorizing the issuance of a Series of Bonds, such Series of Bonds may be made payable from and secured by less than all of the Pledged Revenues, and any one or more of the provisions of this Master Indenture may be made inapplicable to such Series of Bonds, all as more specifically provided in the corresponding Supplemental Indenture; provided, however, that any such provisions shall apply only to the particular Series of Bonds authorized by such Supplemental Indenture and shall not affect in any manner whatsoever any Outstanding Series of Bonds.

Section 6.02 Funds and Accounts Relating to the Bonds. The Funds and Accounts specified in this Article VI shall be established under this Master Indenture and each Supplemental Indenture pursuant to which a Series of Bonds is issued, except as otherwise provided in a Supplemental Indenture, for the benefit of the specific Series of Bonds and any

Series issued on a parity therewith and, unless expressly otherwise provided in said Supplemental Indenture, shall not apply to Bonds Outstanding hereunder issued under any other indenture supplemental hereto or if separately secured by separate Special Assessments. Unless provided otherwise by Supplemental Indenture, all moneys, including, without limitation, proceeds of a Series of Bonds, on deposit to the credit of the Funds and Accounts established hereunder and under a Supplemental Indenture (except for moneys transferred to the Rebate Fund) shall be pledged to the payment of the principal, redemption or purchase price of (as the case may be) and interest on the Series of Bonds issued hereunder and under such Supplemental Indenture, and any Series issued on a parity therewith.

Section 6.03 Revenue Fund. The Trustee is hereby authorized and directed to establish a Revenue Fund and pursuant to a Supplemental Indenture a Series Account for each Series of Bonds issued hereunder, into which the Trustee shall immediately deposit any and all Special Assessments received from the levy thereof on the District Lands or any portion thereof (other than Prepayments) and any amounts received as the result of any foreclosure, sale of tax certificates or other remedial action for nonpayment of Special Assessments for the payment of the related Series of Bonds and other payments required hereunder or under the applicable Supplemental Indenture (unless such Special Assessments and/or other payments are specifically designated by the Issuer pursuant to a Supplemental Indenture for deposit into the Rebate Fund or any other Fund or Account established hereunder or under a Supplemental Indenture) and each Series Account therein shall be held by the Trustee separate and apart from all other Funds and Accounts held under the Indenture and from all other moneys of the Trustee. The Trustee shall transfer from amounts on deposit in the Series Account in the Revenue Fund to the Funds and Accounts designated below, the following amounts, at the following times and in the following order of priority unless other times and/or other priorities are established in a Supplemental Indenture with respect to a Series of Bonds:

FIRST, upon receipt but no later than the Business Day preceding the first May 1 for which there is an insufficient amount from Bond proceeds (or investment earnings thereon) on deposit in the applicable Series Interest Account of the Debt Service Fund to be applied to the payment of interest on the Bonds of a Series due on the next succeeding May 1, and no later than the Business Day next preceding each May 1 thereafter while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Interest Account of the Debt Service Fund, an amount equal to the interest on the related Series of Bonds becoming due on the next succeeding May 1, less any amount on deposit in such Series Interest Account not previously credited;

SECOND, upon receipt but no later than the Business Day preceding the first November 1 for which there remains an insufficient amount from Bond proceeds (or investment earnings thereon) on deposit in the applicable Series Interest Account to be applied to the payment of interest on the Bonds of a Series due on the next succeeding November 1, and no later than the Business Day next preceding each November 1 thereafter while Bonds of such Series issued under the Indenture remain Outstanding, to the applicable Series Interest Account of the Debt Service Fund, an amount equal to the interest on the Bonds of such Series becoming due on the next succeeding November 1, less any amount on deposit in the applicable Series Interest Account not previously credited;

THIRD, beginning on the date set forth in the related Supplemental Indenture, and no later than the Business Day next preceding each May 1 or November 1, as designated in the applicable Supplemental Indenture thereafter while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Principal Account of the Debt Service Fund, an amount equal to the principal amount of Bonds of such Series maturing on the next succeeding principal payment date, less any amount on deposit in the applicable Series Principal Account not previously credited;

FOURTH, on parity with the payments provided in THIRD above, beginning on the date set forth in the related Supplemental Indenture, and no later than the Business Day next preceding each May 1 or November 1, as so designated in the applicable Supplemental Indenture thereafter while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Sinking Fund Account of the Debt Service Fund, an amount equal to the principal amount of Bonds of such Series subject to mandatory sinking fund redemption on the next succeeding mandatory sinking fund redemption date, less any amount on deposit in the applicable Series Sinking Fund Account not previously credited;

FIFTH, upon receipt but no later than the Business Day next preceding each Interest Payment Date while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Account of the Debt Service Reserve Fund, if any, an amount equal to the amount, if any, which is necessary to make the amount on deposit therein equal to the Debt Service Reserve Requirement;

SIXTH, subject to the following paragraph, the balance of any moneys remaining in a Series Account of the Revenue Fund after making the foregoing deposits shall, subject to application as provided by one or more Supplemental Indentures, remain therein, unless pursuant to any Arbitrage Certificate it is necessary to make a deposit in the Rebate Fund, in which case, the Issuer shall direct the Trustee to make such deposit thereto.

Unless otherwise provided in the applicable Supplemental Indenture, the Trustee shall within ten (10) Business Days after the last Interest Payment Date in any calendar year, at the direction of the Issuer, withdraw any moneys held for the credit of the Revenue Fund on November 2nd of such year which are not otherwise required to be deposited pursuant to this Section and deposit such moneys as directed to the credit of the applicable Series Account of the Bond Redemption Fund in accordance with the provisions hereof in the applicable Supplemental Indenture. Notwithstanding the foregoing, if pursuant to any Arbitrage Certificate it is necessary to make a deposit in the Rebate Fund, the Issuer shall direct the Trustee to make such deposit thereto. Prepayments pledged to a particular Series of Bonds shall be deposited directly into the applicable Series Account of the Bond Redemption Fund as provided herein or in the applicable Supplemental Indenture.

Section 6.04 Debt Service Fund. The Trustee is hereby authorized and directed to establish a Debt Service Fund which shall consist of amounts deposited therein by the Trustee and any other amounts the Issuer may pay to the Trustee for deposit therein with respect to the related Series of Bonds. The Debt Service Fund shall be held by the Trustee separate and apart from all other Funds and Accounts held under the Indenture and from all other moneys of the Trustee. The Trustee may establish within the Debt Service Fund pursuant to a Supplemental

Indenture, a Series Principal Account, a Series Interest Account and, if applicable, a Series Sinking Fund Account for each Series of Bonds and a Series Capitalized Interest Account, which accounts shall be separate and apart from all other Funds and Accounts established under the Indenture and from all other moneys of the Trustee.

The Trustee at all times shall make available to any Paying Agent the funds in the Series Principal Account and the Series Interest Account of the Debt Service Fund to pay the principal of the applicable Series of Bonds as they mature upon surrender thereof and the interest on the applicable Series of Bonds as it becomes payable, respectively. When a Series of Bonds is redeemed, the amount, if any, in the Debt Service Fund representing interest thereon shall be applied to the payment of accrued interest in connection with such redemption.

The Trustee shall apply moneys in the Series Sinking Fund Account in the Debt Service Fund for purchase or redemption of the applicable Series of Bonds in amounts and maturities set forth in the Supplemental Indenture. Whenever Bonds of a Series are to be purchased out of such Series Sinking Fund Account, if the Issuer shall notify the Trustee that the Issuer wishes to arrange for such purchase, the Trustee shall comply with the Issuer's arrangements provided they conform to the Indenture.

Except to the extent otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, purchases and redemptions out of the Series Sinking Fund Account shall be made as follows:

(a) The Trustee shall apply the amounts required to be transferred to the Series Sinking Fund Account (less any moneys applied to the purchase of Bonds of the applicable Series pursuant to the next sentence hereof) on the mandatory sinking fund redemption date in each of the years set forth in the Supplemental Indenture to the redemption of Bonds of the related Series in the amounts, manner and maturities and on the dates set forth in the Supplemental Indenture, at a Redemption Price of 100% of the principal amount thereof. At the written direction of the Issuer, the Trustee shall apply moneys from time to time available in the Series Sinking Fund Account to the purchase of Bonds of the applicable Series at prices not higher than the principal amount thereof, in lieu of redemption as aforesaid, provided that firm purchase commitments can be made before the notice of redemption would otherwise be required to be given. In the event of purchases at less than the principal amount thereof, the difference between the amount in the Series Sinking Fund Account representing the principal amount of the Bonds so purchased and the purchase price thereof (exclusive of accrued interest) shall be transferred to the related Series Interest Account of the Debt Service Fund.

(b) Accrued interest on purchased or redeemed Bonds of a Series shall be paid from the related Series Interest Account of the Debt Service Fund.

(c) In lieu of paying the Debt Service Requirements necessary to allow any mandatory redemption of Bonds of a Series from the related Series Sinking Fund Account, the Issuer may present to the Trustee Bonds of such Series purchased by the Issuer pursuant to subparagraph (a) above and furnished for such purposes; provided, however, that no Bonds of such Series so purchased shall be credited towards the Debt Service Requirements in respect of the mandatory redemption of Bonds of such Series for which notice of redemption has been given pursuant to Section 8.02 of this Master Indenture. Any Bond so purchased shall be presented to the Trustee for cancellation. In such event, the Debt Service Requirements with

respect to the Bonds of a Series for the period in which the purchased Bonds are presented to the Trustee shall, for all purposes hereunder, be reduced by an amount equal to the aggregate principal amount of any such Bonds so presented.

Section 6.05 Debt Service Reserve Fund. The Trustee is hereby authorized and directed to establish a Debt Service Reserve Fund and, if applicable, pursuant to a Supplemental Indenture a Series Account for each Series of Bonds issued hereunder. The Debt Service Reserve Fund and each Series Account therein shall be held by the Trustee solely for the benefit of each related Series of Bonds or sub-Series, as determined by the applicable Supplemental Indenture and as may be applied pursuant to Sections 10.11 and 11.04 hereof; provided, however, that notwithstanding anything to the contrary contained in this Master Indenture, the Supplemental Indenture authorizing the issuance of a Series of Bonds may provide that the Debt Service Reserve Fund is not applicable and no account therein shall secure such Series of Bonds. The Debt Service Reserve Fund and each Series Account therein shall constitute an irrevocable trust fund to be applied solely as set forth herein and shall be held by the Trustee separate and apart from all other Funds and Accounts held under the Indenture and from all other moneys of the Trustee. Unless otherwise provided in the Supplemental Indenture authorizing the issuance of a Series of Bonds, on the date of issuance and delivery of a Series of Bonds an amount of Bond proceeds or equity equal to the Debt Service Reserve Requirement in respect of such Series of Bonds, calculated as of the date of issuance and delivery of such Series of Bonds, shall be deposited in the related Series Account of the Debt Service Reserve Fund. Unless otherwise provided in the Supplemental Indenture with respect to a Series of Bonds, and as long as there exists no default under the Indenture and the amount in the Series Account of the Debt Service Reserve Fund is not reduced below the then applicable Debt Service Reserve Requirement with respect to such Series of Bonds, earnings on investments in the Series Account of the Debt Service Reserve Fund shall, prior to the Completion Date of a Project, be transferred to the applicable Acquisition and Construction Account of the Acquisition and Construction Fund, and after the Completion Date, shall be transferred to the related Series Account of the Revenue Fund. Otherwise, earnings on investments in each Series Account of the Debt Service Reserve Fund shall be retained therein until applied as set forth herein. If made applicable in a Supplemental Indenture, in the event that the amount in a Series Account of the Debt Service Reserve Fund exceeds the Debt Service Reserve Requirement with respect to such Series of Bonds due to a decrease in the then applicable Debt Service Reserve Requirement as a result of an optional prepayment by the owner of a lot or parcel of land of Special Assessments against such lot or parcel or a mandatory true-up payment, which Special Assessments are pledged for the payment and security of such Series of Bonds, the excess amount shall, as directed by the terms of the applicable Supplemental Indenture, be transferred from the Series Account or Subaccount of the Debt Service Reserve Fund to the applicable Series Account of the Bond Redemption Fund established for such Series of Bonds and shall constitute a credit against such optional prepayment or true-up payment. If made applicable in the Supplemental Indenture with respect to a Series of Bonds, in the event that the amount in a Series Account of the Debt Service Reserve Fund exceeds the Debt Service Reserve Requirement with respect to such Series of Bonds due to a decrease in the then applicable Debt Service Reserve Requirement for any other reason, the excess amount shall, as directed by the terms of the applicable Supplemental Indenture, be transferred from the Series Account of the Debt Service Reserve Fund to the applicable Series Account or Subaccount as provided in the Supplemental Indenture.

Whenever for any reason on an Interest Payment Date, principal payment date or mandatory redemption date with respect to a related Series of Bonds secured by a Series Account of the Debt Service Reserve Fund the amount in the related Series Interest Account, the related Series Principal Account or the related Series Sinking Fund Account, as the case may be, is insufficient to pay all amounts payable on such Series of Bonds therefrom on such payment dates, the Trustee shall, without further instructions but subject to contrary direction by the Majority Owners of the Bonds to which such Series Account of the Debt Service Reserve Fund relates, transfer the amount of any such deficiency from the related Series Account of the Debt Service Reserve Fund into the related Series Interest Account, the related Series Principal Account and the related Series Sinking Fund Account, as the case may be, with priority to the related Series Interest Account and then, proportionately according to the respective deficiencies therein, to the related Series Principal Account and the related Series Sinking Fund Account, to be applied to pay the Series of Bonds secured by the Series Account of the Debt Service Reserve Fund.

Notwithstanding the foregoing, in lieu of the required deposits into the related Series Account of the Debt Service Reserve Fund, the Issuer may cause to be deposited into the Series Account of the Debt Service Reserve Fund a Debt Service Reserve Insurance Policy or Debt Service Reserve Letter of Credit, either in lieu of any cash amount required to be deposited therein in connection with the issuance of any Series of Bonds or in substitution for the full amounts then on deposit therein or in an amount equal to the difference between the amount required to be deposited and the sum, if any, then on deposit in the Series Account of the Debt Service Reserve Fund, which Debt Service Reserve Insurance Policy or Debt Service Reserve Letter of Credit shall be payable (upon the giving of notice as required thereunder) on any Interest Payment Date or principal payment date on which a deficiency exists which cannot be remedied by moneys in any other Fund or Account held pursuant to the Indenture and available for such purpose. Unless otherwise provided in the Supplemental Indenture with respect to a Series of Bonds, if any such Debt Service Reserve Insurance Policy or Debt Service Reserve Letter of Credit is substituted for moneys on deposit in the Series Account of the Debt Service Reserve Fund, or if at any time there are excess moneys in the Series Account of the Debt Service Reserve Fund, the excess moneys in the Series Account of the Debt Service Reserve Fund shall be transferred to and deposited in the related Series Account or Subaccount of the Revenue Fund. If a disbursement is made from a Debt Service Reserve Insurance Policy or Debt Service Reserve Letter of Credit, the Issuer shall be obligated to either reinstate the maximum limits of such Debt Service Reserve Insurance Policy or Debt Service Reserve Letter of Credit immediately following such disbursement or to deposit into the Series Account of the Debt Service Reserve Fund, as provided in the Indenture for restoration of withdrawals from the Series Account of the Debt Service Reserve Fund, funds in the amount of the disbursement made under such Debt Service Reserve Insurance Policy or Debt Service Reserve Letter of Credit.

In the event that upon the occurrence of any deficiency in a Series Interest Account, a Series Principal Account or a Series Sinking Fund Account, if the Series Account of the Debt Service Reserve Fund is then funded with a Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy, the Trustee shall, on an Interest Payment Date or principal payment date or mandatory redemption date to which such deficiency relates, draw upon the Debt Service Reserve Letter of Credit or cause to be paid under the Debt Service Reserve Insurance Policy an amount sufficient to remedy such deficiency, in accordance with the terms and provisions of the Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance

Policy, as applicable, and any corresponding reimbursement or other agreement governing the Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy; provided, however, that if at the time of such deficiency the Series Account of the Debt Service Reserve Fund is only partially funded with a Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy, prior to drawing on the Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy, as applicable, the Trustee shall first apply any cash and securities on deposit in the Series Account of the Debt Service Reserve Fund to remedy the deficiency in accordance with the second paragraph of this Section 6.05 and, if after such application a deficiency still exists, the Trustee shall make up the balance of the deficiency by drawing on the Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy, as provided in this sentence. Amounts drawn on the Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy, as applicable, shall be applied as set forth in the second paragraph of this Section 6.05. Any amounts drawn under a Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy shall be reimbursed to the issuer thereof in accordance with the terms and provisions of the reimbursement or other agreement governing such Debt Service Reserve Letter of Credit or Debt Service Reserve Insurance Policy.

Section 6.06 Bond Redemption Fund. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, the Trustee is hereby authorized and directed to establish a Bond Redemption Fund and pursuant to a Supplemental Indenture a Series Account within the Bond Redemption Fund for each Series of Bonds issued hereunder into which shall be deposited, moneys in the amounts and at the times provided in Sections 5.01, 6.01, 6.03, 6.05 and 9.12(c) of this Master Indenture. The Series Account within the Bond Redemption Fund shall constitute an irrevocable trust fund to be applied solely as set forth in the applicable Supplemental Indenture and shall be held by the Trustee separate and apart from all other Funds and Accounts held under such Indenture and from all other moneys of the Trustee. All earnings on investments held in the Series Account within the Bond Redemption Fund shall be retained therein and applied as set forth below.

Moneys in the Series Account within the Bond Redemption Fund (including all earnings on investments held in the Series Account within the Bond Redemption Fund) shall be accumulated therein to be used in the following order of priority, to the extent that the need therefor arises:

FIRST, (except for amounts resulting from prepayments of Special Assessments, which shall be applied as provided in the next paragraph) make such deposits into the Rebate Fund created and established under this Master Indenture as the Issuer may direct in accordance with an arbitrage rebate agreement, such moneys thereupon to be used solely for the purposes specified in said arbitrage rebate agreement. Any moneys so transferred from the Series Account within the Bond Redemption Fund to the Rebate Fund shall thereupon be free from the lien and pledge of the related Indenture;

SECOND, to be used to call for redemption pursuant to clause (b) of Section 8.01 hereof an amount of Bonds of the applicable Series equal to the amount of money transferred to the Series Account within the Bond Redemption Fund pursuant to the aforesaid clauses or provisions, as appropriate, for the purpose of such extraordinary mandatory redemption on the dates and at the prices provided in such clauses or provisions, as appropriate; and

THIRD, the remainder to be utilized by the Trustee, at the direction of a Responsible Officer, to call for redemption on each Interest Payment Date or other date on which Bonds of the applicable Series are subject to optional redemption pursuant to Section 8.01(a) hereof such amount of Bonds of the applicable Series taking into account any redemption premium, as may be practicable; provided, however, that not less than Five Thousand Dollars (\$5,000) principal amount of Bonds of the applicable Series shall be called for redemption at one time.

Any such redemption shall be made in accordance with the provisions of Article VIII of this Master Indenture and the applicable provisions of the related Supplemental Indenture. The Issuer shall pay all expenses in connection with such redemption.

Section 6.07 Drawings on Credit Facility. With respect to Bonds in respect of which there has been issued a Credit Facility, the Trustee shall draw on the Credit Facility, in accordance with the provisions for drawing under such Credit Facility, and within the requisite time period, all as set forth in the Credit Facility Agreement or the Supplemental Indenture.

Section 6.08 Procedure When Funds Are Sufficient to Pay All Bonds of a Series. Unless otherwise provided in the Supplemental Indenture with respect to a Series of Bonds, if at any time the moneys held by the Trustee in the Funds (other than the moneys in the Rebate Fund) and Accounts hereunder and under a Supplemental Indenture and available therefor are sufficient to pay the principal or Redemption Price of, as the case may be, and interest on all Bonds of a Series then Outstanding under such Indenture to maturity or prior redemption, together with any amounts due the Issuer and the Trustee, Paying Agent, Registrar and Credit Facility Issuer, if any, the Trustee, at the direction of the Issuer, shall apply the amounts in the Series Funds and Series Accounts to the payment of the aforesaid obligations and the Issuer shall not be required to pay over any further Pledged Revenues with respect to such Series of Bonds unless and until it shall appear that there is a deficiency in the Funds and Accounts held by the Trustee.

Section 6.09 Certain Moneys to Be Held for Series Bondowners Only. Each Series of Bonds issued pursuant to this Master Indenture and the related Supplemental Indenture shall be secured by Pledged Revenues, as set forth herein, and otherwise may be secured by such additional Funds and Accounts and other security (including, but not limited to, Credit Facilities) established by the pertinent Supplemental Indenture. Moneys and investments in the various Funds and Accounts created under a Supplemental Indenture expressly and solely for the benefit of the Series of Bonds issued under such Supplemental Indenture shall be held in trust by the Trustee for the benefit of the Holders of, and Credit Facility Issuer with respect to, Bonds of that Series only.

Section 6.10 Unclaimed Moneys. In the event any Bond shall not be presented for payment when the principal of such Bond becomes due, either at maturity or at the date fixed for redemption of such Bond or otherwise, if amounts sufficient to pay such Bond have been deposited with the Trustee for the benefit of the owner of the Bond and have remained unclaimed for three (3) years after the date payment thereof becomes due shall, upon request of the Issuer, if the Issuer is not at the time to the knowledge of the Trustee in default with respect to any covenant in this Master Indenture, any Supplemental Indenture or the Bonds contained, be paid to the Issuer; and the Owners of the Bonds for which the deposit was made shall thereafter be limited to a claim against the Issuer; provided, however, that the Trustee, before making payment

to the Issuer, shall, if so directed by the Issuer, at the expense of the Issuer, cause a notice to be published in an Authorized Newspaper, stating that the money remaining unclaimed will be returned to the Issuer after a specified date.

Section 6.11 Rebate Fund. The Trustee is hereby authorized and directed to establish a Rebate Fund. Unless provided otherwise in a Supplemental Indenture, the Trustee shall transfer monies from the applicable Series Account in the Revenue Fund and deposit the same to the Rebate Fund, and shall make payments therefrom at the times and in the amounts required to comply with the covenants in the applicable Arbitrage Certificate, as directed by the Issuer in writing. If so directed by the Issuer in writing, the Trustee shall create one or more Series Accounts within the Rebate Fund relating to one or more particular Series of Bonds.

[END OF ARTICLE VI]

ARTICLE VII

SECURITY FOR AND INVESTMENT OR DEPOSIT OF FUNDS

Section 7.01 Deposits and Security Therefor. Unless otherwise as provided in the Supplemental Indenture with respect to a Series of Bonds, all moneys received by the Trustee under a Supplemental Indenture for deposit in any Fund or Account established under this Master Indenture or such Supplemental Indenture shall be considered trust funds, shall not be subject to lien or attachment, except for the lien created by this Master Indenture and the related Supplemental Indenture, and shall be deposited with the Trustee, until or unless invested or deposited as provided in Section 7.02 hereof. All deposits of moneys received by the Trustee under this Master Indenture or such Supplemental Indenture (whether original deposits under this Section 7.01 unless such deposits are of a type referenced in section (iii) of the definition of Investment Securities or deposits or redeposits in time accounts under Section 7.02) shall, to the extent not insured, and to the extent permitted by law, be fully secured as to both principal and interest earned, by Investment Securities of the types set forth in the definition of Investment Securities and the provisions thereof. If at any time the Trustee is unwilling to accept such deposits or unable to secure them as provided above, the Trustee may deposit such moneys with any other depository which is authorized to receive them and the deposits of which are insured by the Federal Deposit Insurance Corporation (including the FDIC Savings Association Insurance Fund). All deposits in any other depository in excess of the amount covered by insurance (whether under this Section 7.01 or Section 7.02 as aforesaid) shall, to the extent permitted by law, be fully secured as to both principal and interest earned, in the same manner as required herein for deposits with the Trustee. Such security shall be deposited with a Federal Reserve Bank, with the trust department of the Trustee as authorized by law with respect to trust funds in the State, or with a bank or trust company having a combined net capital and surplus of not less than \$50,000,000.

Section 7.02 Investment or Deposit of Funds. Except to the extent otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, the Trustee shall, as directed by the Issuer in writing, invest moneys held in the Series Accounts in the Debt Service Fund and any Series Account within the Bond Redemption Fund created under any Supplemental Indenture only in Government Obligations and securities described in subparagraphs (iii), (iv), (v), (vi), (vii) or (xi) of the definition of Investment Securities. Except to the extent otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, the Trustee shall, as directed by the Issuer in writing, invest moneys held in any Series Account of the Debt Service Reserve Fund in Investment Securities. All deposits in time accounts shall be subject to withdrawal without penalty and all investments shall mature or be subject to redemption by the holder without penalty, not later than the date when the amounts will foreseeably be needed for purposes set forth herein. All securities securing investments under this Section shall be deposited with a Federal Reserve Bank, with the trust department of the Trustee, as authorized by law with respect to trust funds in the State, or with a bank or trust company having a combined net capital and surplus of not less than \$50,000,000. The interest and income received upon such investments and any interest paid by the Trustee or any other depository of any Fund or Account and any profit or loss resulting from the sale of securities shall be added or charged to the Fund or Account for which such investments are made; provided, however, that if the amount in any Fund or Account equals or exceeds the amount required to be on deposit therein, subject to Section 6.05 of this Master Indenture and unless otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, any interest

and other income so received shall be deposited in the related Series Account of the Revenue Fund. Upon request of the Issuer, or on its own initiative whenever payment is to be made out of any Fund or Account, the Trustee shall sell such securities as may be requested to make the payment and restore the proceeds to the Fund or Account in which the securities were held. The Trustee shall not be accountable for any depreciation in the value of any such security or for any loss resulting from the sale thereof, except as provided hereinafter. If net proceeds from the sale of securities held in any Fund or Account shall be less than the amount invested and, as a result, the amount on deposit in such Fund or Account is less than the amount required to be on deposit in such Fund or Account, the amount of such deficit shall be transferred to such Fund or Account from the related Series Account of the Revenue Fund.

Absent specific instructions as aforesaid, or absent a standing written direction from the Issuer for the investment of such moneys, then the Trustee shall hold such moneys uninvested and shall not be responsible or liable for keeping the moneys invested. The Trustee shall not be liable or responsible for any loss or entitled to any gain resulting from any investment or sale upon the investment instructions of the Issuer or otherwise, including that set forth in the first sentence of this paragraph. The Trustee may conclusively rely upon the Issuer's written instructions as to both the suitability and legality of all investments directed hereunder or under any Supplemental Indenture. Ratings of investments shall be determined by the Issuer at the time of purchase of such investments and without regard to ratings subcategories. The Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments. The Trustee may make any investments permitted by the provisions of this section through its own bond department or investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades. Confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

Section 7.03 Valuation of Funds. The Trustee shall value the assets in each of the Funds and Accounts established hereunder or under any Supplemental Indenture 45 days prior to each Interest Payment Date, and as soon as practicable after each such valuation date (but no later than ten (10) days after each such valuation date) shall provide the Issuer a report of the status of each Fund and Account as of the valuation date. In computing the assets of any Fund or Account, investments and accrued interest thereon shall be deemed a part thereof, subject to Section 7.02 hereof. For the purpose of determining the amount on deposit to the credit of any Fund or Account established hereunder or under any Supplemental Indenture, obligations in which money in such Fund or Account shall have been invested shall be valued at the market value or the amortized cost thereof, whichever is lower, or at the redemption price thereof, to the extent that any such obligation is then redeemable at the option of the holder.

[END OF ARTICLE VII]

ARTICLE VIII REDEMPTION AND PURCHASE OF BONDS

Section 8.01 Redemption Dates and Prices. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, the Bonds of a Series may be made subject to optional, mandatory and extraordinary redemption and purchase, either in whole or in part, by the Issuer, prior to maturity in the amounts, at the times and in the manner provided in this Article VIII and in the related Supplemental Indenture.

(a) *Optional Redemption.* Bonds of a Series may be subject to optional redemption at the direction of the Issuer, at the times and upon payment of the purchase price as provided in the related Supplemental Indenture.

(b) *Extraordinary Mandatory Redemption in Whole or in Part.* Except as otherwise provided in a Supplemental Indenture with respect to Bonds of the related Series, Bonds of a Series are subject to extraordinary mandatory redemption prior to maturity by the Issuer in whole, on any date, or in part, on any Interest Payment Date, at an extraordinary mandatory redemption price equal to 100% of the principal amount of the Bonds to be redeemed, plus interest accrued to the redemption date, (i) from moneys deposited into the related Series Account within the Bond Redemption Fund following the prepayment of Special Assessments on any portion of the District Lands; (ii) when sufficient moneys are on deposit in the related Series Funds and Accounts (other than moneys in the Rebate Fund and any other excluded Fund or Account as provided in a Supplemental Indenture with respect to a Series of Bonds) to pay and redeem all Outstanding Bonds of a Series and accrued interest thereon to the redemption date in addition to all amounts owed to Persons under the related Indenture; (iii) if made applicable in the Supplemental Indenture with respect to a Series of Bonds, from moneys in excess of the Debt Service Reserve Requirement for a Series of Bonds in the applicable Series Account of the Debt Service Reserve Fund transferred to the Series Account within the Bond Redemption Fund pursuant to Section 6.05 hereof; (iv) from excess moneys transferred from the Series Account of the Revenue Fund to the Series Account within the Bond Redemption Fund in accordance with Section 6.03 of this Master Indenture; (v) if the following is made applicable by the terms of a Supplemental Indenture, from moneys, if any, on deposit in the Series Account within the Bond Redemption Fund pursuant to Section 9.12(c) hereof following condemnation or the sale of any portion of the District Lands benefited by a Project to a governmental entity under threat of condemnation by such governmental entity or the damage or destruction of all or substantially all of the Project when such moneys are not to be used pursuant to Section 9.12(c) to repair, replace or restore the Project; provided, however, that at least forty-five (45) days prior to such extraordinary mandatory redemption, the Issuer shall cause to be delivered to the Trustee (x) notice setting forth the redemption date and (y) a certificate of the Consulting Engineer confirming that the repair and restoration of the Project would not be economical or would be impracticable; or (vi) from amounts transferred to the Series Account of the Bond Redemption Fund from the Series Account of the Acquisition and Construction Fund in accordance with Section 5.01(c) hereof.

(c) *Mandatory Sinking Fund Redemption.* Bonds of a Series may be subject to mandatory sinking fund redemption at a Redemption Price of 100% of the principal amount thereof plus accrued interest to the redemption date, in the years and amounts set forth in a Supplemental Indenture.

In connection with such mandatory sinking fund redemption of Bonds, amounts shall be transferred from the applicable Series Account of the Revenue Fund to the Series Sinking Fund Account of the Debt Service Fund, all as more particularly described in Section 6.03 hereof.

The principal amounts of scheduled Sinking Fund Installments shall be reduced as specified by the Issuer or as provided in Section 8.04 hereof by any principal amounts of the Bonds redeemed pursuant to Section 8.01(a) and (b) hereof or purchased pursuant to Section 6.04 hereof.

Upon any redemption of Bonds other than in accordance with scheduled Sinking Fund Installments, the Issuer shall cause to be recalculated and delivered to the Trustee revised Sinking Fund Installments recalculated so as to amortize the Outstanding principal amount of Bonds of such Series in substantially equal annual installments of principal and interest (subject to rounding to Authorized Denominations of principal) over the remaining term of the Bonds of such Series. The Sinking Fund Installments as so recalculated shall not result in an increase in the aggregate of the Sinking Fund Installments for all Bonds of such Series in any year. In the event of a redemption or purchase occurring less than forty-five (45) days prior to a date on which a Sinking Fund Installment is due, the foregoing recalculation shall not be made to Sinking Fund Installments due in the year in which such redemption or purchase occurs, but shall be made to Sinking Fund Installments for the immediately succeeding and subsequent years.

Section 8.02 Notice of Redemption and of Purchase. Except where otherwise required by a Supplemental Indenture, when required to redeem or purchase Bonds of a Series under any provision of the related Indenture or directed to do so by the Issuer, the Trustee shall cause notice thereof, to be mailed at least thirty (30) but not more than sixty (60) days prior to the redemption or purchase date to all Owners of Bonds to be redeemed or purchased (as such Owners appear on the Bond Register on the fifth (5th) day prior to such mailing), at their registered addresses, but failure to mail any such notice or defect in the notice or in the mailing thereof shall not affect the validity of the redemption or purchase of the Bonds of such Series for which notice was duly mailed in accordance with this Section 8.02. The Issuer shall, when it is directing the Trustee to mail such notice, provide written direction to the Trustee at least sixty (60) days (unless the Trustee agrees to a shorter period) prior to the date on which the Trustee is required to send notice hereunder. Such notice shall be given in the name of the Issuer, shall be dated, shall set forth the Bonds of such Series Outstanding which shall be called for redemption or purchase and shall include, without limitation, the following additional information:

- (a) the redemption or purchase date;
- (b) the redemption or purchase price;
- (c) CUSIP numbers, to the extent applicable, and any other distinctive numbers and letters;
- (d) if less than all Outstanding Bonds of a Series to be redeemed or purchased, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed or purchased;
- (e) that on the redemption or purchase date the Redemption Price or purchase price will become due and payable upon surrender of each such Bond or portion thereof called

for redemption or purchase, and that interest thereon shall cease to accrue from and after said date; and

(f) the place where such Bonds are to be surrendered for payment of the redemption or purchase price, which place of payment shall be a corporate trust office of the Trustee.

If at the time of mailing of notice of an optional redemption or purchase, the Issuer shall not have deposited with the Trustee or Paying Agent moneys sufficient to redeem or purchase all the Bonds called for redemption or purchase, such notice shall state that the redemption is conditional and is subject to the deposit of the redemption or purchase moneys with the Trustee or Paying Agent, as the case may be, not later than the redemption or purchase date, and such notice shall be of no effect unless such moneys are so deposited.

If the amount of funds deposited with the Trustee for such redemption, or otherwise available, is insufficient to pay the Redemption Price and accrued interest on the Bonds so called for redemption on the redemption date, the Trustee shall redeem and pay on such date an amount of such Bonds for which such funds are sufficient, selecting the Bonds to be redeemed randomly from among all such Bonds called for redemption on such date, and among different maturities of Bonds in the same manner as the initial selection of Bonds to be redeemed, and from and after such redemption date, interest on the Bonds or portions thereof so paid shall cease to accrue and become payable; but interest on any Bonds or portions thereof not so paid shall continue to accrue until paid at the same rate as it would have had such Bonds not been called for redemption.

The notices required to be given by this Section 8.02 shall state that no representation is made as to correctness or accuracy of the CUSIP numbers listed in such notice or printed on the Bonds.

Section 8.03 Payment of Redemption Price. If any required (a) unconditional notice of redemption has been duly mailed or waived by the Owners of all Bonds called for redemption or (b) conditional notice of redemption has been so mailed or waived and the redemption moneys have been duly deposited with the Trustee or Paying Agent, then in either case, the Bonds called for redemption shall be payable on the redemption date at the applicable Redemption Price plus accrued interest, if any, to the redemption date. Bonds of a Series so called for redemption, for which moneys have been duly deposited with the Trustee, will cease to bear interest on the specified redemption date, shall no longer be secured by the related Indenture and shall not be deemed to be Outstanding under the provisions of the related Indenture.

Payment of the Redemption Price, together with accrued interest, shall be made by the Trustee or Paying Agent to or upon the order of the Owners of the Bonds called for redemption upon surrender of such Bonds. The Redemption Price of the Bonds to be redeemed, the expenses of giving notice and any other expenses of redemption, shall be paid out of the Fund from which redemption is to be made or by the Issuer, or as specified in a Supplemental Indenture.

Section 8.04 Partial Redemption of Bonds. Except to the extent otherwise provided in a Supplemental Indenture, if less than all of a Series of Bonds of a maturity are to be redeemed, the Trustee shall select the particular Bonds or portions of the Bonds to be called for

redemption by lot in such reasonable manner as the Trustee in its discretion may determine. In the case of any partial redemption of Bonds of a Series pursuant to Section 8.01(a), such redemption shall be effectuated by redeeming Bonds of such Series of such maturities in such manner as shall be specified by the Issuer in writing, subject to the provisions of Section 8.01 hereof. In the case of any partial redemption of Bonds of a Series pursuant to Section 8.01(b), such redemption shall be effectuated by redeeming Bonds of such Series pro rata among the maturities, treating each date on which a Sinking Fund Installment is due as a separate maturity for such purpose, with the portion to be redeemed from each maturity being equal to the product of the aggregate principal amount of Bonds of such Series to be redeemed multiplied times a fraction the numerator of which is the principal amount of the Series of Bonds of such maturity outstanding immediately prior to the redemption date and the denominator of which is the aggregate principal amount of all Bonds of such Series outstanding immediately prior to the redemption date.

[END OF ARTICLE VIII]

ARTICLE IX COVENANTS OF THE ISSUER

Section 9.01 Power to Issue Bonds and Create Lien. The Issuer is duly authorized under the Act and all applicable laws of the State to issue the Bonds, to adopt and execute this Master Indenture and to pledge the Pledged Revenues for the benefit of the Bonds of a Series and any Credit Facility Issuer, except to the extent otherwise provided in a Supplemental Indenture. The Pledged Revenues are not and shall not be subject to any other lien senior to or on a parity with the lien created in favor of the Bonds of a Series and any Credit Facility Issuer with respect to such Series. The Bonds and the provisions of this Master Indenture and any Supplemental Indenture are and will be valid and legally enforceable obligations of the Issuer in accordance with their respective terms. The Issuer shall, at all times, to the extent permitted by law, defend, preserve and protect the pledge created by this Master Indenture and any Supplemental Indenture and all the rights of the Bondholders and any Credit Facility Issuer under this Master Indenture and any Supplemental Indenture against all claims and demands of all other Persons whomsoever.

Section 9.02 Payment of Principal and Interest on Bonds. The payment of the principal or Redemption Price of and interest on all of the Bonds of a Series issued under the related Indenture shall be secured forthwith equally and ratably by a first lien on and pledge of the Pledged Revenues, except to the extent otherwise provided in a Supplemental Indenture; and Pledged Revenues in an amount sufficient to pay the principal or Redemption Price of and interest on the Bonds of a Series authorized by the related Indenture are hereby irrevocably pledged to the payment of the principal or Redemption Price of and interest on the Bonds of a Series authorized under the related Indenture, as the same become due and payable. The Issuer shall promptly pay the interest on and the principal or Redemption Price of every Bond issued hereunder according to the terms thereof, but shall be required to make such payment only out of the Pledged Revenues.

THE BONDS AUTHORIZED UNDER THIS MASTER INDENTURE AND THE RELATED SUPPLEMENTAL INDENTURE AND THE OBLIGATIONS EVIDENCED THEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE ISSUER, INCLUDING, WITHOUT LIMITATION, THE PROJECT OR ANY PORTION THEREOF IN RESPECT OF WHICH ANY SUCH BONDS ARE BEING ISSUED, OR ANY PART THEREOF, BUT SHALL CONSTITUTE A LIEN ONLY ON THE PLEDGED REVENUES AS SET FORTH IN THIS MASTER INDENTURE AND ANY SUPPLEMENTAL INDENTURE. NOTHING IN THE BONDS AUTHORIZED UNDER THIS MASTER INDENTURE AND ANY SUPPLEMENTAL INDENTURE SHALL BE CONSTRUED AS OBLIGATING THE ISSUER TO PAY THE BONDS OR THE REDEMPTION PRICE THEREOF OR THE INTEREST THEREON EXCEPT FROM THE PLEDGED REVENUES, OR AS PLEDGING THE FAITH AND CREDIT OF THE ISSUER, THE COUNTY, THE STATE OR ANY OTHER POLITICAL SUBDIVISION THEREOF, OR AS OBLIGATING THE ISSUER, THE COUNTY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS, DIRECTLY OR INDIRECTLY OR CONTINGENTLY, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR.

Section 9.03 Special Assessments; Re-Assessments.

(a) The Issuer shall levy Special Assessments, and, unless the Issuer collects the Special Assessments directly under the conditions set forth herein, evidence and certify the same to the Tax Collector or shall cause the Property Appraiser to certify the same on the tax roll to the Tax Collector for collection by the Tax Collector and enforcement by the Tax Collector or the Issuer pursuant to the Act, Chapter 170 or Chapter 197, Florida Statutes, or any successor statutes, as applicable, and Section 9.04 hereof, to the extent and in an amount sufficient to pay Debt Service Requirements on all Outstanding Bonds.

(b) If any Special Assessment shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Issuer shall be satisfied that any such Special Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Issuer shall have omitted to make such Special Assessment when it might have done so, the Issuer shall either (i) take all necessary steps to cause a new Special Assessment to be made for the whole or any part of said improvement or against any property benefited by said improvement, or (ii) in its sole discretion, make up the amount of such Special Assessment from any legally available moneys, which moneys shall be deposited into the applicable Series Account in the Revenue Fund. In case such second Special Assessment shall be annulled, the Issuer shall obtain and make other Special Assessments until a valid Special Assessment shall be made.

Section 9.04 Method of Collection. Unless otherwise provided in the applicable Supplemental Indenture, Special Assessments shall be collected by the Issuer in accordance with the provisions of the Act and Chapter 197, Florida Statutes, or any successor statutes thereto, as applicable, in accordance with the terms of this Section. Except as stated in the next succeeding sentence, the Issuer shall use the uniform method for the levy, collection and enforcement of Special Assessments afforded by Sections 197.3631, 197.3632 and 197.3635, Florida Statutes, or any successor statutes thereto (the “Uniform Method”), and to do all things necessary to continue to use the Uniform Method or a comparable alternative method afforded by Section 197.3631, Florida Statutes. Notwithstanding the foregoing, the Issuer shall not use the Uniform Method to collect Special Assessments levied against District Lands should the District determine that another method of collection is in the best interest of the District. The Issuer shall enter into or maintain in effect one or more written agreements with the Property Appraiser and the Tax Collector, either individually or jointly (together, the “Property Appraiser and Tax Collector Agreement”) in order to effectuate the provisions of this Section. The Issuer shall ensure that any such Property Appraiser and Tax Collector Agreement remains in effect for at least as long as the final maturity of Bonds Outstanding under this Indenture. To the extent that the Issuer is legally prevented from collecting Special Assessments pursuant to the Uniform Method, is not required to collect Special Assessments pursuant to the Uniform Method in accordance with the provisions of this Section 9.04 or the Board determines that using the Uniform Method is not in the best interest of the District, the Issuer shall then collect and enforce Special Assessments pursuant to any available method under the Act, Chapter 170, Florida Statutes, or Chapter 197, Florida Statutes, or any successor statutes thereto.

Section 9.05 Delinquent Special Assessments. Subject to the provisions of Section 9.04 hereof, if the owner of any lot or parcel of land assessed for a particular Project shall be delinquent in the payment of any Special Assessment, then such Special Assessment shall be enforced pursuant to the provisions of Chapter 197, Florida Statutes, or any successor statute

thereto, including but not limited to the sale of tax certificates and tax deeds as regards such delinquent Special Assessment. In the event the provisions of Chapter 197, Florida Statutes, and any provisions of the Act with respect to such sale are inapplicable by operation of law, then upon the delinquency of any Special Assessment the Issuer shall, in accordance with the provisions of the applicable Supplemental Indenture, to the extent permitted by law, utilize any other method of enforcement, including, without limitation, declaring the entire unpaid balance of such Special Assessment to be in default and, at its own expense, cause such delinquent property to be foreclosed, pursuant to the provisions of Section 170.10, Florida Statutes, in the same method now or hereafter provided by law for the foreclosure of mortgages on real estate and Sections 190.026 and 170.10, Florida Statutes, or otherwise as provided by law.

Section 9.06 Sale of Tax Certificates and Issuance of Tax Deeds; Foreclosure of Special Assessment Liens. If the Special Assessments levied and collected under the Uniform Method described in Section 9.04 are delinquent, then the applicable procedures for issuance and sale of tax certificates and tax deeds for nonpayment shall be followed in accordance with Chapter 197, Florida Statutes and related statutes. Alternatively, if the Uniform Method is not utilized, and if any property shall be offered for sale for the nonpayment of any Special Assessment, and no person or persons shall purchase the same for an amount at least equal to the full amount due on the Special Assessment (principal, interest, penalties and costs, plus attorneys fees, if any), the property may then be purchased by the Issuer, to the extent the Issuer has available funds, for an amount equal to the balance due on the Special Assessment (principal, interest, penalties and costs, plus attorneys fees, if any), and the Issuer shall thereupon receive in its corporate name or in a special purpose entity created by the District, the title to the property for the benefit of the Registered Owners. The Issuer, either through its own actions or actions caused to be done through the Trustee, shall have the power and shall use its best efforts to lease or sell such property and deposit all of the net proceeds of any such lease or sale into the related Series Account of the Revenue Fund. Not less than ten (10) days prior to the filing of any foreclosure action or any sale of tax deed as herein provided, the Issuer shall deliver written notice thereof to the Trustee of the Series of Bonds secured by such delinquent Special Assessments. Not less than thirty (30) days prior to the proposed sale of any lot or tract of land acquired by foreclosure by the Issuer, it shall give written notice thereof to such Trustee. The Issuer, either through its own actions or actions caused to be done through the Trustee, agrees that it shall be required to take the measure provided by law for sale of property acquired by it as trustee for the Registered Owners within thirty (30) days after the receipt of the request therefor signed by the Registered Owners of at least fifty percent (50%) of the aggregate principal amount of all Outstanding Bonds of the Series payable from Special Assessments assessed on such property. If directed by the Beneficial Owners of a majority of the Bonds Outstanding or if the Trustee or the Issuer shall so elect, the Issuer and the Trustee may place title of property received upon foreclosure or deed in lieu of foreclosure into a special purpose entity controlled by the Trustee or such other entity acceptable to the Beneficial Owners of a majority of the Bonds of a Series so effected by such foreclosure, for the benefit of the Registered Owners.

Section 9.07 Books and Records with Respect to Special Assessments. In addition to the books and records required to be kept by the Issuer pursuant to the provisions of Section 9.15 hereof, the Issuer shall keep books and records for the collection of the Special Assessments on the District Lands, which such books, records and accounts shall be kept separate and apart from all other books, records and accounts of the Issuer. The District Manager or the District Manager's designee, at the end of each Fiscal Year, shall prepare a written report setting forth

the collections received, the number and amount of delinquencies, the proceedings taken to enforce collections and cure delinquencies and an estimate of time for the conclusion of such legal proceedings.

Section 9.08 Deposit of Special Assessments. The Issuer covenants to cause any Special Assessments collected or otherwise received by it to be deposited with the Trustee within five (5) Business Days after receipt thereof for deposit into the related Series Account of the Revenue Fund (except that amounts received as prepayments of Special Assessments shall be designated by the Issuer as such upon delivery to the Trustee and shall be deposited directly into the related Series Account within the Bond Redemption Fund).

Section 9.09 Construction to be on District Lands. Except for certain off-site improvements which are or may be outside the District Lands and are required in order for the District Lands to be developed, the Issuer covenants that no part of the Project will be constructed on, over or under lands other than (i) lands good and marketable title to which is owned by the Issuer or other appropriate entity in fee simple, (ii) lands on, over or under which the Issuer or other appropriate entity shall have acquired perpetual easements for the purposes of the Project, or (iii) lands, including public streets and highways, the right to the use and occupancy of which for such purposes shall be vested in the Issuer or other appropriate entity by law or by valid franchises, licenses, easements or rights of way or other legally effective permissions or approval.

Section 9.10 Operation, Use and Maintenance of Project. The Issuer shall establish and enforce reasonable rules and regulations governing the use of the Project owned by the Issuer, and the operation thereof, such rules and regulations to be adopted in accordance with the Act, and the Issuer shall operate, use and maintain the Project owned by the Issuer in accordance with the Act and all other applicable federal and State laws, rules and regulations; the Issuer shall maintain and operate the Project owned by the Issuer in an efficient and economical manner, shall at all times maintain the same in good repair and in sound operating condition and shall make all necessary repairs, renewals and replacements.

Section 9.11 Observance of and Compliance with Valid Requirements. The Issuer shall pay all municipal or governmental charges lawfully levied or assessed upon any Project or any part thereof or upon any revenues when the same shall become due, and the Issuer shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to each Project. The Issuer shall not, except as otherwise permitted in Section 9.22 of this Article, create or suffer to be created any lien or charge upon any Project or upon Pledged Revenues, except the lien and charge of the Bonds on the Pledged Revenues.

Section 9.12 Public Liability and Property Damage Insurance; Maintenance of Insurance; Use of Insurance and Condemnation Proceeds.

(a) Except as otherwise provided in subsection (d) of this Section, the Issuer will carry or cause to be carried, in respect of each Project, comprehensive general liability insurance (covering bodily injury and property damage) issued by one or more insurance companies authorized and qualified to do business under the laws of the State, in such amounts as is customary for similar operations, or as is more specifically set forth below.

(b) At all times, to the extent commercially available, the Issuer shall maintain a practical insurance program, with reasonable terms, conditions, provisions and costs which the District Manager determines will afford adequate protection against loss caused by damage to or destruction of any component of any Project owned by the Issuer. Limits for such coverage will be subject to the Consulting Engineer's recommendations. The Issuer shall also, at all times, maintain a practical comprehensive general liability insurance program with respect to any Project for such coverage, with such reasonable terms, conditions, provisions and costs as the District Manager determines will afford adequate protection against bodily injury and property damage.

All insurance policies of the Issuer relating to any Project shall be carried with companies authorized to do business in the State, with a Best rating of no less than "A" as to management and Class "V" as to financial strength; provided, however, that if, in the opinion of the District Manager, adequate insurance protection under reasonable terms, conditions, provisions and cost cannot be purchased from an insurance company with the above-designated ratings, then the District Manager, on behalf of the Issuer, may secure such insurance protection as the Issuer determines to be in its best interests and otherwise consistent with this Master Indenture and any Supplemental Indenture; provided further, however, that the Issuer may act as a self-insurer in accordance with the requirements of subsection (d) hereof. All policies providing the insurance coverages required by this Section shall designate the Issuer as the loss-payee and shall be made payable to the Issuer.

(c) All proceeds received from property damage or destruction insurance and all proceeds received from the condemnation of any Project or any part thereof are hereby pledged by the Issuer as security for the related Series of Bonds and shall be deposited at the option of the Issuer, but subject to the limitations hereinafter described, either (i) into the Acquisition and Construction Fund, and used to remedy the loss, damage or taking for which such proceeds are received, either by repairing the damaged property or replacing the destroyed or taken property, as soon as practicable after the receipt of such proceeds, or (ii) if so provided in the applicable Supplemental Indenture into the related Series Account within the Bond Redemption Fund for the purpose of purchasing or redeeming Bonds according to the provisions set forth in Article VIII hereof. The Issuer shall not be entitled to deposit insurance proceeds or condemnation awards into the separate fund described above in clause (i) of this paragraph (and such proceeds and awards shall be deposited directly into the related Series Account within the Bond Redemption Fund pursuant to clause (ii) of this paragraph) unless there shall have been filed with the Issuer within a reasonable time after the damage, destruction or condemnation (A) a certificate from the Consulting Engineer that the proceeds of the insurance or condemnation awards deposited into such separate fund, together with other funds available for such purposes, will be sufficient to repair, rebuild, replace or restore such property to substantially the same condition as it was in prior to its damage, destruction or condemnation (taking into consideration any changes, alterations and modifications that the Issuer may desire), (B) an opinion from the Consulting Engineer that the Project can be repaired, rebuilt, replaced or restored within two (2) years following the damage, destruction or condemnation thereof and (C) an opinion of the Consulting Engineer that, in each of the three (3) Fiscal Years following completion of such repair, rebuilding, replacement or restoration, the Issuer will be in compliance with its obligations hereunder. If the certificate described in clause (A) of this paragraph is not rendered because such proceeds or awards are insufficient for such purposes, the Issuer may deposit any other legally available funds in such separate fund in an amount required

to enable the Consulting Engineer to render its certificate. If the insurance proceeds or condemnation awards deposited in such separate fund are more than sufficient to repair the damaged property or to replace the destroyed or taken property, the balance thereof remaining shall be deposited to the credit of the related Series Account in the Revenue Fund.

(d) The Issuer shall be entitled to provide all or a portion of the insurance coverage required by subsections (a) and (b) of this Section through Qualified Self Insurance, provided that the requirements hereinafter set forth in this subsection (d) are satisfied. "Qualified Self Insurance" means insurance maintained through a program of self insurance or insurance maintained with a company or association in which the Issuer has a material interest or of which the Issuer has control, either singly or with others.

Prior to participation in any plan of Qualified Self Insurance not currently in effect, the Issuer shall obtain a certificate of compliance executed by the District Manager to the effect that (A) the proposed Qualified Self Insurance plan will provide the coverage required by subsections (a) and (b) of this Section, and (B) the proposed Qualified Self Insurance plan provides for the creation of actuarially sound reserves.

Each plan of Qualified Self Insurance shall be in written form, shall provide that upon the termination of such plan reserves will be established or insurance acquired in amounts adequate to cover any potential retained liability in respect of the period of self insurance, and shall be reviewed annually by the District Manager or registered actuary who shall deliver to the Issuer a report on the adequacy of the reserves established thereunder in light of claims made. If the District Manager or registered actuary determines that such reserves are inadequate in light of the claims made, he shall make recommendations as to the amount of reserves that should be established and maintained, and the Issuer shall comply with such recommendations.

(e) Copies of all recommendations and approvals made by the Consulting Engineer under the provisions of this Section shall be filed with the District Manager.

Section 9.13 Collection of Insurance Proceeds. Copies of all insurance policies referred to in Section 9.12 of this Article shall be available at the offices of the Issuer at all reasonable times to the inspection of the Holders of the Bonds and their agents and representatives duly authorized in writing. The Issuer covenants that it will take such action as may be necessary to demand, collect and sue for any insurance money which may become due and payable under any policy of insurance required under this Master Indenture or any Supplemental Indenture, whether such policy is payable to the Issuer or to the Trustee. The Trustee is hereby authorized in its own name to demand, collect, sue and receive any insurance money which may become due and payable under any policies payable to it.

Section 9.14 Use of Revenues for Authorized Purposes Only. None of the Pledged Revenues shall be used for any purpose other than as provided in this Master Indenture and the related Supplemental Indenture and no contract or contracts shall be entered into or any action taken by the Issuer or the Trustee which will be inconsistent with the provisions of this Master Indenture and the related Supplemental Indenture.

Section 9.15 Books and Records. The Issuer shall keep proper books of records and accounts in accordance with Generally Accepted Accounting Principles (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions

relating to any Project, and which, together with all other books and records of the Issuer, including, without limitation, insurance policies, relating to any Project, shall at all times be subject during regular business hours to the inspection of the Trustee.

Section 9.16 Observance of Accounting Standards. The Issuer covenants that all the accounts and records of the Issuer relating to the Project will be kept according to Generally Accepted Accounting Principles consistently applied and consistent with the provisions of this Master Indenture and any Supplemental Indenture.

Section 9.17 Employment of Certified Public Accountant. The Issuer shall employ or cause to be employed as required a Certified Public Accountant to perform accounting and auditing functions and duties required by the Act and this Master Indenture and any Supplemental Indenture.

Section 9.18 Establishment of Fiscal Year, Annual Budget. The Issuer has established a Fiscal Year beginning October 1 of each year and ending September 30 of the following year. The reports and budget of the Issuer shall relate to such Fiscal Year unless and until, in accordance with applicable law, a different Fiscal Year is established.

On or before the first day of each Fiscal Year the Issuer shall adopt a final Annual Budget with respect to the Project for such Fiscal Year for the payment of anticipated operating and maintenance expenses and shall supply a copy of such budget promptly upon the approval thereof to any Bondholders who shall have so requested in writing and shall have filed their names and addresses with the Secretary of the Board for such purpose. The Issuer may at any time adopt an amended or supplemental Annual Budget for the remainder of the current Fiscal Year, and when such amended or supplemental Annual Budget is approved it shall be treated as the official Annual Budget under this Master Indenture and any Supplemental Indenture. Copies of such amended or supplemental Annual Budget shall be mailed by the Issuer to any Bondholders who shall have so requested in writing and shall have filed their names and addresses with the Secretary of the Board for such purpose.

Section 9.19 Employment of Consulting Engineer; Consulting Engineer's Report. The Issuer shall, for the purpose of performing and carrying out the duties imposed on the Consulting Engineer by this Master Indenture and any Supplemental Indenture, employ one or more Independent engineers or engineering firms or corporations having a statewide and favorable repute for skill and experience in such work.

Copies of such annual report shall be mailed by the Issuer to any Bondholders who shall have filed their names and addresses with the Secretary of the Board for such purpose.

Section 9.20 Audit Reports. The Issuer covenants that, within the time period mandated by applicable state law, it will cause an audit to be made by a Certified Public Accountant covering all receipts and moneys then on deposit with or in the name of the Trustee or the Issuer and any security held therefor and any investments thereof. Copies of such audit reports shall be filed with the District Manager and the Secretary of the Board, and mailed by said Secretary to the Consulting Engineer and to all Bondholders who shall have filed their names and addresses with him for such purpose.

Section 9.21 Reserved.

Section 9.22 Covenant Against Sale or Encumbrance; Exceptions. The Issuer covenants that, (a) except for those improvements comprising any Project that are to be conveyed by the Issuer to the County, the State Department of Transportation or another governmental entity and (b) except as in this Section permitted, it will not sell, lease or otherwise dispose of or encumber any Project, or any part thereof. Subject to the provisions of Section 9.28 hereof, the Issuer may, however, from time to time, sell any machinery, fixtures, apparatus, tools, instruments or other movable property acquired by it from the proceeds of a Series of Bonds or from Pledged Revenues if the District Manager shall determine, with the approval of the Consulting Engineer, that such items are no longer needed or are no longer useful in connection with the construction, maintenance and operation of the related Project, and the proceeds thereof shall be applied to the replacement of the properties so sold or disposed of or, at the written direction of the Issuer shall be deposited to the credit of the related Series Account in the Revenue Fund.

Upon any sale of property relating to the Project, the aggregate of which in any thirty (30) day period exceeds Fifty Thousand Dollars (\$50,000) under the provisions of this Section, the Issuer shall provide written notice to the Trustee of the property so sold and the amount and disposition of the proceeds thereof.

Subject to obtaining an opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds for federal income tax purposes, the Issuer may lease or grant easements, franchises or concessions for the use of any part of the Project not incompatible with the maintenance and operation thereof, if the Consulting Engineer shall approve such lease, easement, franchise or concession in writing, and the net proceeds of any such lease, easement, franchise or concession (after the making of provision for payment from said proceeds of all costs incurred in financing, constructing, operating, maintaining or repairing such leases, easements, franchises or concessions) shall be deposited as received to the credit of related Series Account in the Revenue Fund.

Section 9.23 No Loss of Lien on Pledged Revenue. The Issuer shall not do or omit to do, or suffer to be done or omit to be done, any matter or thing whatsoever whereby the lien of the Bonds on the Pledged Revenues or any part thereof, or the priority thereof, would be lost or impaired; provided, however, that this Section shall not prohibit the Trustee from transferring moneys to the Rebate Fund held by the Trustee under any arbitrage rebate agreement.

Section 9.24 Compliance With Other Contracts and Agreements. The Issuer shall comply with and abide by all of the terms and conditions of any and all contracts and agreements which the Issuer enters into in connection with the Project and the issuance of the Bonds.

Section 9.25 Issuance of Additional Obligations. Except as otherwise provided herein and in the applicable Supplemental Indenture the Issuer shall not issue any obligations other than the Bonds payable from Pledged Revenues, nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge, payable from Pledged Revenues.

Section 9.26 Extension of Time for Payment of Interest Prohibited. The Issuer shall not directly or indirectly extend or assent to an extension of time for payment of any claim for interest on any of the Bonds and shall not directly or indirectly be a party to or approve any arrangement therefor by purchasing or funding or in any manner keeping alive any such claim

for interest; no claim for interest which in any way, at or after maturity, shall have been transferred or pledged apart from the Bonds to which it relates or which shall in any manner have been kept alive after maturity by extension or by purchase thereof by or on behalf of the Issuer, shall be entitled, in case of a default hereunder, to any benefit or security under this Master Indenture and any Supplemental Indenture except after the prior payment in full of the principal of all Bonds and claims for interest appertaining thereto not so transferred, pledged, kept alive or extended.

Section 9.27 Further Assurances. The Issuer shall not enter into any contract or take any action by which the rights of the Trustee or the Bondholders may be impaired and shall, from time to time, execute and deliver such further instruments and take such further action as may be required to carry out the purposes of this Master Indenture and any Supplemental Indenture.

Section 9.28 Use of Bond Proceeds to Comply with Internal Revenue Code. The Issuer covenants to the Holders of the Bonds that it will not make or direct the making of any investment or other use of the proceeds of any Bonds issued hereunder, the interest on which is intended to be excluded from gross income for federal income tax purposes (“Tax-Exempt Bonds”) which would cause such Bonds to be “arbitrage bonds” as that term is defined in Section 148 (or any successor provision thereto) of the Code or “private activity bonds” as that term is defined in Section 141 (or any successor provision thereto) of the Code, and that it will comply with the requirements of such Code sections and related regulations throughout the term of such Tax-Exempt Bonds necessary to maintain the exclusion of the interest on such Bonds from gross income for federal income tax purposes. The Issuer hereby further covenants and agrees to comply with the procedures and covenants contained in any Arbitrage Certificate executed in connection with the issuance of each Series of Tax-Exempt Bonds for so long as compliance is necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on each Series of Tax-Exempt Bonds.

Section 9.29 Corporate Existence and Maintenance of Properties. For so long as any Bonds are Outstanding hereunder, unless otherwise provided by the Act, the Issuer shall maintain its corporate existence as a local unit of special-purpose government under the Act and shall provide for or otherwise require all Projects, and all parts thereof owned by the Issuer to be (a) continuously operated, repaired, improved and maintained as shall be necessary to provide adequate service to the lands benefited thereby; and (b) in compliance with all valid and applicable laws, acts, rules, regulations, permits, orders, requirements and directions of any competent public authority.

Section 9.30 Continuing Disclosure. The Issuer hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Master Indenture and any Supplemental Indenture, failure of the Issuer or the Developer (if obligated pursuant to the Continuing Disclosure Agreement) to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of any participating underwriter or the Holders of at least 25% aggregate principal amount in Outstanding Bonds of a Series and receipt of indemnity to its satisfaction, shall) or any Holder of the Bonds or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Issuer to comply with its obligations under this Section 9.30. For purposes of this Section, “Beneficial Owner” means any person which (a) has the

power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

[END OF ARTICLE IX]

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default and Remedies. Except to the extent otherwise provided in the Supplemental Indenture authorizing a Series of Bonds, events of default and remedies with respect to each Series of Bonds shall be as set forth in this Master Indenture.

Section 10.02 Events of Default Defined. Each of the following shall be an “Event of Default” under the Indenture, with respect to a Series of Bonds:

(a) if payment of any installment of interest on any Bond of such Series is not made when it becomes due and payable; or

(b) if payment of the principal or Redemption Price of any Bond of such Series is not made when it becomes due and payable at maturity or upon call or presentation for redemption; or

(c) if the Issuer, for any reason, fails in, or is rendered incapable of, fulfilling its obligations under the Indenture or under the Act, which may be determined solely by the Majority Owners of the applicable Bonds; or

(d) if the Issuer proposes or makes an assignment for the benefit of creditors or enters into a composition agreement with all or a material part of its creditors, or a trustee, receiver, executor, conservator, liquidator, sequestrator or other judicial representative, similar or dissimilar, is appointed for the Issuer or any of its assets or revenues, or there is commenced any proceeding in liquidation, bankruptcy, reorganization, arrangement of debts, debtor rehabilitation, creditor adjustment or insolvency, local, state or federal, by or against the Issuer and if such is not vacated, dismissed or stayed on appeal within ninety (90) days; or

(e) if the Issuer defaults in the due and punctual performance of any other covenant in the Indenture or in any Bond of such Series issued pursuant to the Indenture and such default continues for sixty (60) days after written notice requiring the same to be remedied shall have been given to the Issuer by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Majority Owners of such Series; provided, however, that if such performance requires work to be done, actions to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such sixty (60) day period, no Event of Default shall be deemed to have occurred or exist if, and so long as the Issuer shall commence such performance within such sixty (60) day period and shall diligently and continuously prosecute the same to completion; or

(f) written notice shall have been received by the Trustee from a Credit Facility Issuer securing Bonds of such Series that an event of default has occurred under the Credit Facility Agreement, or there shall have been a failure by said Credit Facility Issuer to make said Credit Facility available or to reinstate the interest component of said Credit Facility in accordance with the terms of said Credit Facility, to the extent said notice or failure is established as an event of default under the terms of a Supplemental Indenture.

Section 10.03 No Acceleration; Redemption. No Series of Bonds issued under this Master Indenture shall be subject to acceleration unless the Special Assessments securing such

Bonds have been accelerated. Upon an Event of Default, no optional redemption or extraordinary mandatory redemption of the Bonds pursuant to Article VIII hereof shall occur unless either all of the Bonds of the Series where an Event of Default has occurred will be redeemed or if 100% of the Holders of such Series of Bonds agree to such redemption, provided that this Section 10.03 does not preclude a distribution pursuant to Section 10.11 hereof.

Section 10.04 Legal Proceedings by Trustee. If any Event of Default with respect to a Series of Bonds has occurred and is continuing, the Trustee, in its discretion may, and upon the written request of the Majority Owners of such Series and receipt of indemnity to its satisfaction shall, in its own name:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Holders of the Bonds of such Series, including, without limitation, the right to require the Issuer to carry out any agreements with, or for the benefit of, the Bondholders of the Bonds of such Series and to perform its or their duties under the Act;

(b) bring suit upon the Series of Bonds;

(c) by action or suit in equity require the Issuer to account as if it were the trustee of an express trust for the Holders of the Bonds of such Series;

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds of such Series; and

(e) by other proceeding in law or equity, exercise all rights and remedies provided for by any other document or instrument securing such Series of Bonds.

Section 10.05 Discontinuance of Proceedings by Trustee. If any proceeding taken by the Trustee on account of any Event of Default is discontinued or is determined adversely to the Trustee, then the Issuer, the Trustee, the Paying Agent and the Bondholders shall be restored to their former positions and rights hereunder as though no such proceeding had been taken.

Section 10.06 Bondholders May Direct Proceedings. The Majority Owners of the Outstanding Bonds of a Series then subject to remedial proceedings under this Article X shall have the right to direct the method and place of conducting all remedial proceedings by the Trustee under the Indenture, provided that such directions shall not be otherwise than in accordance with law and the provisions of the Indenture. The Trustee shall have no liability as a result of any actions taken upon any such direction of the Holders.

Section 10.07 Limitations on Actions by Bondholders. No Bondholder shall have any right to pursue any remedy hereunder unless (a) the Trustee shall have been given written notice of an Event of Default, (b) the Majority Owners of the applicable Series shall have requested the Trustee, in writing, to exercise the powers hereinabove granted or to pursue such remedy in its or their name or names, (c) the Trustee shall have been offered indemnity satisfactory to it against costs, expenses and liabilities (including attorneys' fees, costs and expenses), and (d) the Trustee shall have failed to comply with such request within a reasonable time.

Section 10.08 Trustee May Enforce Rights Without Possession of Bonds. All rights under the Indenture and a Series of Bonds may be enforced by the Trustee without the possession

of any of the Bonds of such Series or the production thereof at the trial or other proceedings relative thereto, and any proceeding instituted by the Trustee shall be brought in its name for the ratable benefit of the Holders of the Bonds of such Series.

Section 10.09 Remedies Not Exclusive. Except as limited under Section 15.01 of this Master Indenture, no remedy contained in the Indenture with respect to a Series of Bonds is intended to be exclusive of any other remedy or remedies, and each remedy is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 10.10 Delays and Omissions Not to Impair Rights. No delay or omission in respect of exercising any right or power accruing upon any Event of Default shall impair such right or power or be a waiver of such Event of Default, and every remedy given by this Article X may be exercised from time to time and as often as may be deemed expedient.

Section 10.11 Application of Moneys in Event of Default. Any moneys held by the Trustee or received by the Trustee or the Paying Agent, as the case may be, in connection with any proceedings brought under this Article X with respect to a Series of Bonds shall be applied in the following order of priority:

(a) to the payment of the fees and costs of the Trustee and Paying Agent incurred in connection with actions taken under this Article X with respect to such Series of Bonds, including counsel fees and any disbursements of the Trustee and the Paying Agent, and to the payment of any other unpaid fees and expenses owed to the Trustee.

(b) unless the principal of all of the Bonds of such Series shall have become or shall have been declared due and payable then:

FIRST: to payment of all installments of interest then due on the Bonds of such Series in the order of maturity of such installments of interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any preference or priority of one installment of interest over any other installment; and

SECOND: to payment to the persons entitled thereto of the unpaid principal or Redemption Price of any of the Bonds of such Series which shall have become due in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due and, if the amount available shall not be sufficient to pay in full the principal or Redemption Price coming due on such Bonds on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any preference or priority of one such Bond of a Series over another or of any installment of interest over another.

If the principal of all Bonds of a Series shall have become or shall have become due and payable, to the payment of principal or Redemption Price (as the case may be) and interest then owing on the Bonds of such Series and in case such moneys shall be insufficient to pay the same in full, then to the payment of principal or Redemption Price and interest ratably, without

preference or priority of one Bond of such Series over another or of any installment of interest over any other installment of interest.

Any surplus remaining after the payments described above shall be paid to the Issuer or to the Person lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

For purposes of the application of moneys described above, to the extent payments of principal of and interest on a Series of Bonds shall have been made under a Credit Facility relating thereto, the Credit Facility Issuer shall be entitled to moneys in the related Series Accounts in the Debt Service Fund in accordance with the agreement pursuant to which such Credit Facility has been issued (but subject to subsection (a) hereof and Section 11.04 hereof) and the Certified Resolution of the Issuer authorizing the issuance of such Bonds to which such Credit Facility relates.

Section 10.12 Trustee and Bondholders Entitled to all Remedies under Act. It is the purpose of this Article to provide, subject to the provisions hereof, such remedies to the Trustee and Bondholders as may be lawfully granted under the provisions of the Act and other applicable laws of the State; if any remedy herein granted shall be held unlawful, the Trustee and the Bondholders shall nevertheless be entitled to every other remedy provided by the Act and other applicable laws of the State.

Section 10.13 Trustee's Right to Receiver: Compliance with Act. During the continuance of an Event of Default, the Trustee shall be entitled as of right to the appointment of a receiver and the Trustee, the Bondholders and any receiver so appointed shall have such rights and powers and be subject to such limitations and restrictions as are contained in the Act and other applicable law of the State. When the Trustee incurs costs or expenses (including legal fees, costs and expenses) or renders services after the occurrence of an Event of Default, such costs and expenses and the compensation of such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 10.14 Credit Facility Issuer's Rights Upon Events of Default. Anything in the Indenture to the contrary notwithstanding, if any Event of Default, other than Events of Default described in Section 10.02(a) or (b) hereof, has occurred and is continuing while a Credit Facility securing all or a portion of such Bonds of a Series Outstanding is in effect, the Credit Facility Issuer shall have the right, in lieu of the Owners of the Series of Bonds (or portion thereof) secured by said Credit Facility, by an instrument in writing, executed and delivered to the Trustee, to direct the time, method and place of conducting all remedial proceedings available to the Trustee under the Indenture, or exercising any trust or power conferred on the Trustee by the Indenture. Said direction shall be controlling to the extent the direction of Owners of the Series of Bonds (or portion thereof) secured by said Credit Facility would have been controlling under this Article. If the Credit Facility Issuer shall be in default in the performance of its obligations under the Credit Facility, said Credit Facility Issuer shall have no rights under this Section.

[END OF ARTICLE X]

ARTICLE XI

THE TRUSTEE; THE PAYING AGENT AND REGISTRAR

Section 11.01 Acceptance of Trust. The Trustee accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article XI, to all of which the parties hereto and the Bondholders and any Credit Facility Issuer agree. The Trustee shall act as Trustee under this Master Indenture. Subject to the provisions of Section 11.03 hereof, the Trustee shall have only such duties as are expressly set forth herein, and no duties shall be implied on the part of the Trustee. Permissive rights of the Trustee hereunder do not create a duty on the part of the Trustee.

Section 11.02 No Responsibility for Recitals. The recitals, statements and representations in this Master Indenture or in the Bonds, save only the Trustee's Certificate of Authentication, if any, upon the Bonds, have been made by the Issuer and not by the Trustee and the Trustee shall be under no responsibility for the correctness thereof.

Section 11.03 Trustee May Act Through Agents; Answerable Only for Willful Misconduct or Negligence. The Trustee may execute any powers hereunder and perform any duties required of it through attorneys, agents, officers or employees, and shall be entitled to advice of Counsel or other experts concerning all questions hereunder and the advice of such Counsel or any opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon; the Trustee shall not be answerable for the default or misconduct of any attorney or other experts or agent selected and supervised by it with reasonable care. The Trustee shall not be answerable for the exercise of any discretion or power under this Master Indenture and any Supplemental Indenture nor for anything whatever in connection with the trust hereunder, except only its own negligence or willful misconduct or breach of its obligation hereunder. The Trustee shall not be accountable for the use or application of any of the Bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Indenture. The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty. The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds. None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it. The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes, fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances, sabotage; epidemic; pandemic; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

Section 11.04 Compensation and Indemnity. The Issuer shall pay the Trustee reasonable compensation for its services hereunder, and also all its reasonable expenses and disbursements, and shall, to the extent permitted by law, indemnify and hold the Trustee harmless against any liabilities which it may incur in the proper exercise and performance of its powers and duties hereunder, except with respect to its own willful misconduct or negligence. If the Issuer defaults in respect of the foregoing obligations, the Trustee may deduct the amount owing to it from any moneys held by it or coming into its hands but exclusive of the Rebate Fund and moneys from a drawing on any Credit Facility, which right of payment shall be prior to the right of the holders of the Bonds. The Trustee shall promptly provide a statement of any moneys the Trustee has deducted in amounts owing to it. This Section 11.04 shall survive the termination of this Master Indenture and any Supplemental Indenture and, as to any Trustee, its removal or resignation as Trustee. No provision of this Master Indenture shall require the Trustee to expend or risk its own funds.

Section 11.05 No Duty to Renew Insurance. The Trustee shall be under no duty to effect or to renew any insurance policy nor shall it incur any liability for the failure of the Issuer to require or effect or renew insurance or to report or file claims of loss thereunder.

Section 11.06 Notice of Default; Right to Investigate. The Trustee shall give written notice by first-class mail to registered Holders of a Series of Bonds of all defaults known to the Trustee, unless such defaults have been remedied (the term “defaults” for purposes of this Section and Section 11.07 being defined to include the events specified as “Events of Default” in Article X hereof, but not including any notice or periods of grace provided for therein); provided that, except in the case of a default in payment of principal or interest or Redemption Price, the Trustee may withhold such notice so long as it in good faith determines that such withholding is in the interest of the Bondholders. The Trustee shall not be deemed to have notice of any default other than a payment default under this Master Indenture and any Supplemental Indenture or a notification by a Credit Facility Issuer of a default under its Credit Facility, unless notified in writing of such default by the Majority Holders of the Outstanding Bonds of a Series. The Trustee may, however, at any time require of the Issuer full information as to the performance of any covenant hereunder, and if information satisfactory to it is not forthcoming, the Trustee may make or cause to be made, at the expense of the Issuer, an investigation into the affairs of the Issuer.

Section 11.07 Obligation to Act on Defaults. The Trustee shall be under no obligation to take any action in respect of any default or otherwise, unless it is requested in writing to do so by the Holders of at least a majority of the aggregate principal amount of the Outstanding Bonds which are or would be, upon the taking of such action, subject to remedial proceedings under Article X of this Master Indenture if in its opinion such action may tend to involve expense or liability, and unless it is also furnished with indemnity satisfactory to it. The Trustee shall have no liability for actions taken at the direction of a majority in principal amount of the Outstanding Bonds subject to remedial action.

Section 11.08 Reliance by Trustee. The Trustee may act on any requisition, resolution, notice, telegram, facsimile transmission, request, consent, waiver, certificate, statement, affidavit, voucher, bond, or other paper or document which it in good faith believes to be genuine and to have been passed, signed or given by the persons purporting to be authorized (which in the case of the Issuer shall be a Responsible Officer) or to have been prepared and furnished pursuant to any of the provisions of this Master Indenture and any Supplemental

Indenture; the Trustee shall be under no duty to make any investigation as to any statement contained in any such instrument, but may accept the same as conclusive evidence of the accuracy of such statement.

Section 11.09 Trustee May Deal in Bonds. The Trustee may in good faith buy, sell, own, hold and deal in any of the Bonds and may join in any action which any Bondholders may be entitled to take with like effect as if the Trustee were not a party to this Master Indenture and any Supplemental Indenture. The Trustee may also engage in or be interested in any financial or other transaction with the Issuer; provided, however, that if the Trustee determines that any such relation is in conflict with its duties under this Master Indenture and any Supplemental Indenture, it shall eliminate the conflict or resign as Trustee.

Section 11.10 Construction of Ambiguous Provisions. The Trustee may construe any ambiguous or inconsistent provisions of this Master Indenture and any Supplemental Indenture, and except as otherwise provided in Article XIII of this Master Indenture, any construction by the Trustee shall be binding upon the Bondholders. The Trustee shall give prompt notice to the Issuer of any intention to make such construction.

Section 11.11 Resignation of Trustee. The Trustee may resign and be discharged of the trusts created by this Master Indenture and all Supplemental Indentures by written resignation filed with the Secretary of the Issuer not less than sixty (60) days before the date when such resignation is to take effect. Notice of such resignation shall be sent by first-class mail to each Bondholder as its name and address appears on the Bond Register and to any Paying Agent, Registrar and Credit Facility Issuer, if any, at least sixty (60) days before the resignation is to take effect. Such resignation shall take effect on the day specified in the Trustee's notice of resignation unless a successor Trustee is previously appointed, in which event the resignation shall take effect immediately on the appointment of such successor; provided, however, that notwithstanding the foregoing, such resignation shall not take effect until a successor Trustee has been appointed. If a successor Trustee has not been appointed within ninety (90) days after the Trustee has given its notice of resignation, the Trustee may petition any court of competent jurisdiction for the appointment of a temporary successor Trustee to serve as Trustee until a successor Trustee has been duly appointed. Notice of such resignation shall also be given to any rating agency that shall then have in effect a rating on any of the Bonds.

Section 11.12 Removal of Trustee. The Trustee may be removed at any time by either (a) the Issuer, if no default exists under this Master Indenture or any Supplemental Indenture, or (b) an instrument or concurrent instruments in writing, executed by the Majority Owners of the Bonds then Outstanding and filed with the Issuer. A photographic copy of any instrument or instruments filed with the Issuer under the provisions of this paragraph, duly certified by a Responsible Officer, shall be delivered promptly by the Issuer to the Trustee and to any Paying Agent, Registrar and Credit Facility Issuer, if any.

The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Master Indenture or any Supplemental Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Issuer or the Majority Owners of the Bonds then Outstanding.

Section 11.13 Appointment of Successor Trustee. If the Trustee or any successor Trustee resigns or is removed or dissolved, or if its property or business is taken under the control of any state or federal court or administrative body, a vacancy shall forthwith exist in the office of the Trustee, and the Issuer shall appoint a successor and shall mail notice of such appointment by first-class mail to each Bondholder as its name and address appear on the Bond Register, and to the Paying Agent, Registrar, Credit Facility Issuer, if any, and any rating agency that shall then have in effect a rating on any of the Bonds. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Master Indenture prior to the date specified in the notice of resignation or removal as the date when such resignation or removal was to take effect, the Majority Owners of all Bonds then Outstanding may appoint a successor Trustee.

Section 11.14 Qualification of Successor. A successor Trustee shall be a bank or trust company with trust powers, having a combined net capital and surplus of at least \$75,000,000.

Section 11.15 Instruments of Succession. Except as provided in Section 11.16 hereof, any successor Trustee shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder and thereupon, such successor Trustee, without any further act, deed, or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named Trustee herein. The Trustee ceasing to act hereunder, after deducting all amounts owed to the Trustee, shall pay over to the successor Trustee all moneys held by it hereunder and, upon request of the successor Trustee, the Trustee ceasing to act and the Issuer shall execute and deliver an instrument or instruments prepared by the Issuer transferring to the successor Trustee all the estates, properties, rights, powers and trusts hereunder of the predecessor Trustee, except for its rights to indemnity under Section 11.04 hereof.

Section 11.16 Merger of Trustee. Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, or any corporation which shall have purchased substantially all of the bond administration business of the corporate trust department shall be the successor Trustee under this Master Indenture and all Supplemental Indentures, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that any such successor corporation continuing to act as Trustee hereunder shall meet the requirements of Section 11.14 hereof, and if such corporation does not meet the aforesaid requirements, a successor Trustee shall be appointed pursuant to this Article XI. The Trustee may not resign as the Paying Agent or the Registrar without resigning as Trustee.

Section 11.17 Extension of Rights and Duties of Trustee to Paying Agent and Registrar. The provisions of Sections 11.02, 11.03, 11.04, 11.08, 11.09, 11.10 and 11.16 hereof are hereby made applicable to the Paying Agent and the Registrar, as appropriate, and any Person serving as Paying Agent and/or Registrar, hereby enters into and agrees to comply with the covenants and agreements of this Master Indenture and all Supplemental Indentures applicable to the Paying Agent and Registrar, respectively.

Section 11.18 Resignation of Paying Agent or Registrar. The Paying Agent or Registrar may resign and be discharged of the duties created by this Master Indenture and all Supplemental Indentures by executing an instrument in writing resigning such duties and

specifying the date when such resignation shall take effect, and filing the same with the Issuer, the Trustee, and any rating agency that shall then have in effect a rating on any of the Bonds, not less than forty-five (45) days before the date specified in such instrument when such resignation shall take effect, and by giving written notice of such resignation not less than three (3) weeks prior to such resignation date to the Bondholders, mailed to their addresses as such appear in the Bond Register. Such resignation shall take effect on the date specified in such instrument and notice, but only if a successor Paying Agent or Registrar shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor Paying Agent or Registrar. If the successor Paying Agent or Registrar shall not have been appointed within a period of ninety (90) days following the giving of notice, then the Paying Agent or Registrar shall be authorized to petition any court of competent jurisdiction to appoint a successor Paying Agent or Registrar as provided in Section 11.22 hereof.

Section 11.19 Removal of Paying Agent or Registrar. The Paying Agent or Registrar may be removed at any time prior to any Event of Default by the Issuer by filing with the Paying Agent or Registrar to be removed, and with the Trustee, an instrument or instruments in writing executed by the Issuer appointing a successor, or an instrument or instruments in writing designating, and accompanied by an instrument or appointment by the Issuer of, such successor. Such removal shall be effective thirty (30) days (or such longer period as may be set forth in such instrument) after delivery of the instrument; provided, however, that no such removal shall be effective until the successor Paying Agent or Registrar appointed hereunder shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder.

Section 11.20 Appointment of Successor Paying Agent or Registrar. In case at any time the Paying Agent or Registrar shall be removed, or be dissolved, or if its property or affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy, or for any other reason, then a vacancy shall forthwith and ipso facto exist in the office of the Paying Agent or Registrar, as the case may be, and a successor shall be appointed by the Issuer; and in case at any time the Paying Agent or Registrar shall resign, then a successor shall be appointed by the Issuer. After any such appointment, notice of such appointment shall be given by the Issuer to the predecessor Paying Agent or Registrar, the successor Paying Agent or Registrar, the Trustee, the Credit Facility Issuer, if any, any rating agency that shall then have in effect a rating on any of the Bonds, and all Bondholders. Any new Paying Agent or Registrar so appointed shall immediately, and without further act, supersede the predecessor Paying Agent or Registrar.

Section 11.21 Qualifications of Successor Paying Agent or Registrar. Every successor Paying Agent or Registrar (a) shall be a commercial bank or trust company (i) duly organized under the laws of the United States or any state or territory thereof, (i) authorized by law to perform all the duties imposed upon it by this Master Indenture and all Supplemental Indentures and (iii) capable of meeting its obligations hereunder, and (b) shall have a combined net capital and surplus of at least \$75,000,000.

Section 11.22 Judicial Appointment of Successor Paying Agent or Registrar. In case at any time the Paying Agent or Registrar shall resign and no appointment of a successor Paying Agent or Registrar shall be made pursuant to the foregoing provisions of this Master Indenture prior to the date specified in the notice of resignation as the date when such resignation is to take effect, the retiring Paying Agent or Registrar may forthwith apply to a court of competent jurisdiction for the appointment of a successor Paying Agent or Registrar. Such court may

thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Paying Agent or Registrar. Notice of such appointment shall be given by the Successor Registrar or Paying Agent to the Issuer, the Trustee, the Credit Facility Issuer, if any, any rating agency that shall then have in effect a rating on any of the Bonds, and all Bondholders. In the absence of such an appointment, the Trustee shall become the Registrar or Paying Agent, or and shall so notify the Issuer, any rating agency that shall have issued a rating on the Bonds, and all Bondholders.

Section 11.23 Acceptance of Duties by Successor Paying Agent or Registrar. Any successor Paying Agent or Registrar shall become duly vested with all the estates, property, rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named Paying Agent or Registrar herein. Upon request of such Paying Agent or Registrar, except as provided in Section 11.24 hereof, such predecessor Paying Agent or Registrar and the Issuer shall execute and deliver an instrument transferring to such successor Paying Agent or Registrar all the estates, property, rights and powers hereunder of such predecessor Paying Agent or Registrar and such predecessor Paying Agent or Registrar shall pay over and deliver to the successor Paying Agent or Registrar all moneys and other assets at the time held by it hereunder.

Section 11.24 Successor by Merger or Consolidation. Any corporation into which any Paying Agent or Registrar hereunder may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Paying Agent or Registrar hereunder shall be a party, or any corporation which shall have purchased substantially all of the bond administration business of the corporate trust department shall be the successor Paying Agent or Registrar under this Master Indenture and all Supplemental Indentures without the execution or filing of any paper or any further act on the part of the parties thereto, anything in this Master Indenture or any Supplemental Indenture to the contrary notwithstanding.

[END OF ARTICLE XI]

ARTICLE XII
ACTS OF BONDHOLDERS; EVIDENCE OF OWNERSHIP OF BONDS

Section 12.01 Acts of Bondholders; Evidence of Ownership of Bonds. Any action to be taken by Bondholders may be evidenced by one or more concurrent written instruments of similar tenor signed or executed by such Bondholders in person or by an agent appointed in writing. The fact and date of the execution by any person of any such instrument may be provided by acknowledgment before a notary public or other officer empowered to take acknowledgments or by an affidavit of a witness to such execution. Any action by the Owner of any Bond shall bind all future Owners of the same Bond in respect of anything done or suffered by the Issuer, Trustee, Paying Agent or Registrar in pursuance thereof.

[END OF ARTICLE XII]

ARTICLE XIII AMENDMENTS AND SUPPLEMENTS

Section 13.01 Amendments and Supplements Without Bondholders' Consent. This Master Indenture and any Supplemental Indenture may be amended or supplemented, from time to time, without the consent of the Bondholders, by a Supplemental Indenture authorized by a Certified Resolution of the Issuer filed with the Trustee, for one or more of the following purposes:

(a) to add additional covenants of the Issuer or to surrender any right or power herein conferred upon the Issuer;

(b) for any purpose not inconsistent with the terms of the related Indenture, or to cure any ambiguity or to cure, correct or supplement any defective provision (whether because of any inconsistency with any other provision hereof or otherwise) of the related Indenture, in such manner as shall not impair the security hereof or thereof or adversely affect the rights and remedies of the Bondholders;

(c) to provide for the execution of any and all contracts and other documents as may be required in order to effectuate the conveyance of any Project to the County, State, the County, or any department, agency or branch thereof, or any other unit of government of the State, provided, however, that the Issuer shall have caused to be delivered to the Trustee an opinion of Bond Counsel stating that such conveyance shall not impair the security hereof or adversely affect the rights and remedies of the Bondholders;

(d) to make such changes as may be deemed necessary or desirable as determined by the District in order to provide for the issuance of a Series of Bonds to refund a portion of a Series of Bonds or for the completion of a Project financed with such Series of Bonds, on a parity with the Outstanding Bonds of such Series;

(e) to make any change in connection with the issuance of a new Series of Bonds if such change affects only such Series of Bonds; and

(f) to make such changes as may be necessary in order to reflect amendments to Chapters 170, 190 and 197, Florida Statutes, so long as, in the opinion of counsel to the Issuer, such changes either: (i) do not have a material adverse effect on the Holders of the Bonds; or (ii) if such changes do have an adverse effect, that they nevertheless are required to be made as a result of such amendments.

Section 13.02 Amendments With Bondholders' Consent. Subject to the provisions of Section 13.01 hereof, this Master Indenture and any Supplemental Indenture may be amended from time to time by a Supplemental Indenture approved by the Majority Owners of the Bonds then Outstanding in the case of the Master Indenture, and of the Series of Bonds then Outstanding and secured by such Supplemental Indenture in the case of an amendment of a Supplemental Indenture including, but not limited to, any material amendment to the Special Assessments and related proceedings which secure a Series of Bonds; provided that with respect to (a) the interest payable upon any Bonds, (b) the dates of maturity or redemption provisions of any Bonds, (c) this Article XIII and (d) except as otherwise provided in this section, the security

provisions hereunder or under any Supplemental Indenture, which may only be amended by approval of the Owners of all Bonds then Outstanding to be so amended.

Section 13.03 Trustee Authorized to Join in Amendments and Supplements; Reliance on Counsel. The Trustee is authorized to join in the execution and delivery of any supplemental indenture or amendment permitted by this Article XIII and in so doing is entitled to require and to rely on a written opinion of Counsel, at the expense of the Issuer, that such supplemental indenture or amendment is so permitted and has been duly authorized by the Issuer and that all things necessary to make it a valid and binding agreement have been done; and if Bonds are tax exempt, that such amendment doesn't cause interest to become taxable.

[END OF ARTICLE XIII]

ARTICLE XIV DEFEASANCE

Section 14.01 Defeasance. When interest on, and principal or Redemption Price (as the case may be) of, the Bonds of a Series or any portion thereof to be defeased have been paid, or there shall have been deposited with the Trustee or such other escrow agent designated in a Certified Resolution of the Issuer (the “Escrow Agent”) moneys sufficient, or Defeasance Securities, the principal of and interest on which, when due, together with any moneys, remaining uninvested, will provide sufficient moneys to fully pay (i) such Bonds of a Series or portion thereof to be defeased, and (ii) any other sums payable hereunder by the Issuer, the right, title and interest of the Trustee with respect to such Bonds of a Series or portion thereof to be defeased shall thereupon cease, the lien of the Indenture on the Pledged Revenues, and the Funds and Accounts established under the Indenture shall be defeased and discharged, and the Trustee, on demand of the Issuer, shall release the Indenture as to such Bonds of a Series or portion thereof to be so defeased and shall execute such documents to evidence such release as may be reasonably required by the Issuer and shall turn over to the Issuer or to such Person, body or authority as may be entitled to receive the same all balances remaining in any Series Funds and Accounts upon the defeasance in whole of all of the Bonds of a Series.

Section 14.02 Deposit of Funds for Payment of Bonds. If the Issuer deposits with the Escrow Agent moneys sufficient, or Defeasance Securities, the principal of and interest on which, when due, together with any moneys remaining uninvested, will provide sufficient moneys to pay the principal or Redemption Price of any Bonds of a Series becoming due, either at maturity or by redemption or otherwise, together with all interest accruing thereon to the date of maturity or such prior redemption, and reimburses or causes to be reimbursed or pays or causes to be paid the other amounts required to be reimbursed or paid under Section 14.01 hereof, interest on such Bonds of a Series shall cease to accrue on such date of maturity or prior redemption and all liability of the Issuer with respect to such Bonds of a Series shall likewise cease, except as hereinafter provided; provided, however, that (a) if any Bonds are to be redeemed prior to the maturity thereof, notice of the redemption thereof shall have been duly given in accordance with the provisions of Section 8.02 hereof, or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice, and (b) in the event that any Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days following a deposit of moneys with the Escrow Agent, in accordance with this Section, the Issuer shall have given the Escrow Agent, in form satisfactory to the Escrow Agent, irrevocable instructions to mail to the Owners of such Bonds at their addresses as they appear on the Bond Register, a notice stating that a deposit in accordance with this Section has been made with the Escrow Agent and that the Bonds to which such notice relates are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal or Redemption Price (as the case may be) of, and interest on, said Bonds of a Series. Thereafter such Bonds shall be deemed not to be Outstanding hereunder and the Owners of such Bonds shall be restricted exclusively to the funds so deposited for any claim of whatsoever nature with respect to such Bonds, and the Escrow Agent shall hold such funds in trust for such Owners. At the time of the deposit referred to above, there shall be delivered to the Escrow Agent a verification from a firm of independent certified public accountants or other qualified independent consultant stating that the principal of and interest on the Defeasance Securities, together with the stated amount of any cash remaining on deposit with the Escrow Agent, will be sufficient without reinvestment to pay the remaining

principal of, redemption premium, if any, and interest on such defeased Bonds and an opinion of Bond Counsel that (i) such defeasance will not adversely affect the tax-exemption of the interest on any Outstanding Bonds and (ii) such Bonds are no longer Outstanding.

Money so deposited with the Escrow Agent which remains unclaimed three (3) years after the date payment thereof becomes due shall, upon request of the Issuer, if the Issuer is not at the time to the knowledge of the Escrow Agent in default with respect to any covenant in the Indenture or the Bonds of the Series contained, be paid to the Issuer; and the Owners of the Bonds for which the deposit was made shall thereafter be limited to a claim against the Issuer; provided, however, that the Escrow Agent, before making payment to the Issuer, shall, if so directed by the Issuer, at the expense of the Issuer, cause a notice to be published in an Authorized Newspaper, stating that the money remaining unclaimed will be returned to the Issuer after a specified date.

[END OF ARTICLE XIV]

ARTICLE XV MISCELLANEOUS PROVISIONS

Section 15.01 Limitations on Recourse. No personal recourse shall be had for any claim based on this Master Indenture or any Supplemental Indenture or the Bonds against any member of the Board of the Issuer, officer, employee or agent, past, present or future, of the Issuer or of any successor body as such, either directly or through the Issuer or any such successor body, under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise.

The Bonds of each Series are payable solely from the Pledged Revenues, and any other moneys held by the Trustee under the Indenture for such purpose. There shall be no other recourse under the Bonds, the Indenture or otherwise, against the Issuer or any other property now or hereafter owned by it.

Section 15.02 Payment Dates. In any case where an Interest Payment Date or the maturity date of the Bonds or the date fixed for the redemption of any Bonds shall be other than a Business Day, then payment of interest, principal or Redemption Price need not be made on such date but may be made on the next succeeding Business Day, with the same force and effect as if made on the due date, and no interest on such payment shall accrue for the period after such due date if payment is made on such next succeeding Business Day.

Section 15.03 No Rights Conferred on Others. Nothing herein contained shall confer any right upon any Person other than the parties hereto and the Holders of the Bonds and the Credit Facility Issuers, if any.

Section 15.04 Illegal Provisions Disregarded. If any term of Master Indenture or any Supplemental Indenture or the Bonds or the application thereof for any reason or circumstances shall to any extent be held invalid or unenforceable, the remaining provisions or the application of such terms or provisions to Persons and situations other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof and thereof shall be valid and enforced to the fullest extent permitted by law.

Section 15.05 Substitute Notice. If for any reason it shall be impossible to make duplication of any notice required hereby in a newspaper or newspapers, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of such notice.

Section 15.06 Notices. Any notice, demand, direction, request or other instrument authorized or required by this Master Indenture or any Supplemental Indenture to be given to or filed with the Issuer or the Trustee shall be deemed to have been sufficiently given or filed for all purposes of this Master Indenture or any Supplemental Indenture if and when personally delivered and receipted for, or if mailed by first class mail, addressed as follows:

- (a) As to the Issuer -
Berry Bay Community Development District
c/o District Manager
2005 Pan Am Circle, Suite 300
Tampa, FL 33607

(b) As to the Trustee –

U.S. Bank National Association
225 E. Robinson Street, Suite 250
Orlando, Florida 32801

Any of the foregoing may, by notice sent to each of the others, designate a different or additional address to which notices under this Master Indenture or any Supplemental Indenture are to be sent.

All documents received by the Trustee under the provisions of this Master Indenture or any Supplemental Indenture and not required to be redelivered shall be retained in its possession, subject at all reasonable times to the inspection of the Issuer, any Consultant, any Bondholder and the agents and representatives thereof as evidence in writing. The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by the Issuer by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Issuer shall provide to the Trustee an incumbency certificate listing designated persons with the authority to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Issuer agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 15.07 Controlling Law. This Master Indenture and all Supplemental Indentures shall be governed by and construed in accordance with the laws of the State.

Section 15.08 Successors and Assigns. All the covenants, promises and agreements in this Master Indenture and all Supplemental Indentures contained by or on behalf of the Issuer or by or on behalf of the Trustee shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

Section 15.09 Headings for Convenience Only. The table of contents and descriptive headings in this Master Indenture are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

Section 15.10 Counterparts. This Master Indenture and any Supplemental Indentures may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 15.11 Appendices and Exhibits. Any and all appendices or exhibits referred to in and attached to this Master Indenture are hereby incorporated herein and made a part hereof for all purposes.

Section 15.12 Patriot Act Requirements of Trustee. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust, or other legal entity, the Trustee will ask for documentation to verify such non-individual person's formation and existence as a legal entity. The Trustee may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

Section 15.13 Brokerage Confirmations. The Issuer acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer the right to receive individual confirmations of security transactions at no additional cost, as they occur, the Issuer specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Issuer periodic cash transaction statements that include detail for all investment transactions made by the Trustee hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Berry Bay Community Development District has caused this Master Indenture to be executed by the Vice Chairperson of its Board and its corporate seal to be hereunto affixed, attested by the Secretary or Assistant Secretary of its Board and U.S. Bank National Association has caused this Master Indenture to be executed by one of its authorized signatories, all as of the day and year first above written.

BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT

Attest:

By: _____
Name: _____
Title: Vice Chairperson, Board of Supervisors

By _____
Name: _____
Title: Secretary, Board of Supervisors

U.S. BANK NATIONAL ASSOCIATION, as
Trustee, Paying Agent and Registrar

By: _____
Title: Vice President

EXHIBIT A

BERRY BAY COMMUNITY DEVELOPMENT DISTRICT

(Acquisition and Construction Fund Requisition)

The undersigned, a Responsible Officer of the Berry Bay Community Development District (the “District”) hereby submits the following requisition for disbursement under and pursuant to the terms of the Master Trust Indenture between the District and U.S. Bank National Association, as trustee (the “Trustee”), dated as of _____ 1, 2020, as supplemented by that certain _____ Supplemental Trust Indenture dated as of _____ (collectively, the “Indenture”) (all capitalized terms used herein shall have the meaning ascribed to such term in the Indenture);

- (A) Requisition Number;
- (B) Name of Payee;
- (C) Amount Payable;
- (D) Purpose for which paid or incurred (refer also to specific contract if amount is due and payable pursuant to a contract involving progress payments):

The undersigned hereby certifies that:

- 1. obligations in the stated amount set forth above have been incurred by the District;
- 2. each disbursement set forth above is a proper charge against the Acquisition and Construction Fund;
- 3. each disbursement set forth above was incurred in connection with the Cost of the _____ Project;
- 4. each disbursement represents a Cost of the _____ Project which has not previously been paid; and
- 5. the costs set forth in the requisition are reasonable.

The undersigned hereby further certifies that there has not been filed with or served upon the District notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to the Payee set forth above, which has not been released or will not be released simultaneously with the payment hereof.

The undersigned hereby further certifies that such requisition contains no item representing payment on account of any retained percentage which the District is at the date of such certificate entitled to retain.

Copies of the invoice(s) from the vendor of the property acquired or the services rendered with respect to which disbursement is hereby requested or other similar evidence of proof of payment is on file with the District.

BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT

By: _____
Responsible Officer

Date: _____

The undersigned Consulting Engineer hereby certifies that this disbursement is for the Cost of the _____ Project and is consistent with the report of the Consulting Engineer, as such report shall have been amended or modified.

Consulting Engineer

RESOLUTION NO. 2020-23

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT DECLARING NON-AD VALOREM SPECIAL ASSESSMENTS; INDICATING THE LOCATION, NATURE AND ESTIMATED COST OF THE PUBLIC IMPROVEMENTS WHICH COST IS TO BE DEFRAIDED IN WHOLE OR IN PART BY THE SPECIAL ASSESSMENTS; PROVIDING THE PORTION OF THE ESTIMATED COST OF THE PUBLIC IMPROVEMENTS TO BE DEFRAIDED IN WHOLE OR IN PART BY THE SPECIAL ASSESSMENTS; PROVIDING THE MANNER IN WHICH SUCH SPECIAL ASSESSMENTS SHALL BE MADE; PROVIDING WHEN SUCH SPECIAL ASSESSMENTS SHALL BE MADE; DESIGNATING LANDS UPON WHICH THE SPECIAL ASSESSMENTS SHALL BE LEVIED; PROVIDING FOR AN ASSESSMENT PLAT; AUTHORIZING THE PREPARATION OF A PRELIMINARY ASSESSMENT ROLL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of Supervisors (the "**Board**") of the Berry Bay Community Development District (the "**District**") has determined to construct and/or acquire certain public improvements (the "**Project**") set forth in the plans and specifications described in the Report of the District Engineer dated March 26, 2020 (the "**Engineer's Report**"), incorporated by reference as part of this Resolution and which is available for review at the offices of Meritus, located at 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607 (the "**District Office**"); and

WHEREAS, the Board finds that it is in the best interest of the District to pay the cost of the Project by imposing, levying, and collecting non-ad valorem special assessments pursuant to Chapter 190, the Uniform Community Development District Act, Chapter 170, the Supplemental Alternative Method of Making Local and Municipal Improvements, and Chapter 197, Florida Statutes (the "**Assessments**"); and

WHEREAS, the District is empowered by Chapters 190, 170 and 197, Florida Statutes, to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain the Project and to impose, levy, and collect the Assessments; and

WHEREAS, the District hereby determines that benefits will accrue to the property improved, the amount of those benefits, and that the Assessments will be made in proportion to the benefits received as set forth in the Master Assessment Methodology Report dated March 26, 2020, (the "**Assessment Report**") incorporated by reference as part of this Resolution and on file in the District Office; and

WHEREAS, the District hereby determines that the Assessments to be levied will not exceed the benefits to the property improved.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE DISTRICT THAT:

1. The foregoing recitals are hereby incorporated as the findings of fact of the Board.
2. The Assessments shall be levied to defray all of the costs of the Project.
3. The nature of the Project generally consists of public improvements consisting of undergrounding of electrical power, roadways, stormwater ponds, potable water distribution, sanitary sewer system, reclaimed water distribution, recreational amenities, parks, landscaping, and hardscaping, all as described more particularly in the plans and specifications on file at the District Office, which are by specific reference incorporated herein and made part hereof.
4. The general locations of the Project are as shown on the plans and specifications referred to above.
5. As stated in the Engineer's Report, the estimated cost of the Project is approximately \$37,480,000 (hereinafter referred to as the "**Estimated Cost**").
6. As stated in the Assessment Report, the Assessments will defray approximately \$49,590,000 of the expenses, which includes the Estimated Cost, plus financing related costs, capitalized interest, a debt service reserve and contingency, all of which may be financed by the District's proposed special assessment revenue bonds, to be issued in one or more series.
7. The manner in which the Assessments shall be made is based upon an allocation of the benefits among the parcels or real property benefited by the Project as set forth in the Assessment Report. As provided in further detail in the Assessment Report, the lands within the District are currently undeveloped and unplatted and therefore the Assessments will be levied initially on a per acre basis since the Project benefits all of developable lands within the District. On and after the date benefited lands within the District are specifically platted, the Assessments as to platted lots will be levied in accordance with the Assessment Report, that is, on an equivalent assessment basis per product type. Until such time that all benefited lands within the District are specifically platted, the manner by which the Assessments will be imposed on unplatted lands shall be on a per acre basis in accordance with the Assessment Report.
8. In the event the actual cost of the Project exceeds the Estimated Cost, such excess may be paid by the District from additional assessments or contributions from other entities. No such excess shall be required to be paid from the District's general revenues.
9. The Assessments shall be levied in accordance with the Assessment Report referenced above on all lots and lands, within the District, which are adjoining and contiguous or bounding and abutting upon the Project or specially benefited thereby and further designated by the assessment plat hereinafter provided for.
10. There is on file at the District Office, an assessment plat showing the area to be assessed, with the plans and specifications describing the Project and the Estimated Cost, all of which shall be open to inspection by the public.

11. The Chair of the Board has caused the District Manager to prepare a preliminary assessment roll which shows the lots and lands assessed, the amount of benefit to and the assessment against each lot or parcel of land and the number of annual installments into which the assessment is divided. The preliminary assessment roll is part of the Assessment Report which is on file at the District Office.

12. In accordance with the Assessment Report and commencing with the year in which the District is obligated to make payment of a portion of the Estimated Cost acquired by the District, the Assessments shall be paid in not more than 30 annual installments payable at the same time and in the same manner as are ad valorem taxes and as prescribed by Chapter 197, Florida Statutes; provided, however, that in the event the non-ad valorem assessment method of collection is not available to the District in any year, or the District determines not to utilize the provision of Chapter 197, Florida Statutes, the Assessments may be collected as is otherwise permitted by law.

PASSED AND ADOPTED this 26th day of March, 2020.

Attest:

**Berry Bay Community
Development District**

Printed Name: _____
Secretary / Assistant Secretary

Printed Name: _____
Chair of the Board of Supervisors

RESOLUTION NO. 2020-24

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT SETTING A PUBLIC HEARING TO BE HELD ON MAY 7, 2020 AT 2:00 P.M. AT THE OFFICES OF MERITUS LOCATED AT 2005 PAN AM CIRCLE, SUITE 300, TAMPA, FLORIDA 33607, FOR THE PURPOSE OF HEARING PUBLIC COMMENT ON IMPOSING A SPECIAL ASSESSMENT ON CERTAIN PROPERTY WITHIN THE DISTRICT GENERALLY DESCRIBED AS BERRY BAY COMMUNITY DEVELOPMENT DISTRICT IN ACCORDANCE WITH CHAPTERS 170, 190 AND 197, FLORIDA STATUTES.

WHEREAS, the Board of Supervisors (the "**Board**") of the Berry Bay Community Development District (the "**District**") has previously adopted Resolution No. 2020-23 entitled

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT DECLARING NON-AD VALOREM SPECIAL ASSESSMENTS; INDICATING THE LOCATION, NATURE AND ESTIMATED COST OF THE PUBLIC IMPROVEMENTS WHICH COST IS TO BE DEFRAIDED IN WHOLE OR IN PART BY THE SPECIAL ASSESSMENTS; PROVIDING THE PORTION OF THE ESTIMATED COST OF THE PUBLIC IMPROVEMENTS TO BE DEFRAIDED IN WHOLE OR IN PART BY THE SPECIAL ASSESSMENTS; PROVIDING THE MANNER IN WHICH SUCH SPECIAL ASSESSMENTS SHALL BE MADE; PROVIDING WHEN SUCH SPECIAL ASSESSMENTS SHALL BE MADE; DESIGNATING LANDS UPON WHICH THE SPECIAL ASSESSMENTS SHALL BE LEVIED; PROVIDING FOR AN ASSESSMENT PLAT; AUTHORIZING THE PREPARATION OF A PRELIMINARY ASSESSMENT ROLL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in accordance with Resolution No. 2020-23, a preliminary assessment roll has been prepared and all other conditions precedent set forth in Chapters 170, 190 and 197, Florida Statutes; to the holding of the aforementioned public hearing have been satisfied, and the preliminary assessment roll and related documents are available for public inspection at the offices of Meritus, 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607 (the "**District Office**").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DISTRICT THAT:

1. There is hereby declared a public hearing to be held on May 7, 2020, at 2:00 p.m. at the offices of Meritus located at 2005 Pan Am Circle, Suite 300, Tampa, Florida 33607, for the purpose of hearing comment and objection to the proposed special assessment program for District public improvements as identified in the preliminary assessment roll, a copy of which is on file at the District Office. Affected parties may appear at that hearing or submit their comments in writing prior to the meeting to the District Manager at the District Office at the address listed above.

2. Notice of said hearing shall be advertised in accordance with Chapters 170, 190 and 197 Florida Statutes, and the District Manager is hereby authorized to place said notice in a newspaper of

general circulation within Hillsborough County (by two publications one week apart with the first publication at least 20 days prior to the date of the hearing established herein). The District Manager shall file a publisher’s affidavit with the District Secretary verifying such publication of notice. The District Manager is further authorized and directed to give 30 days written notice by first class United States mail of the time and place of this hearing to the owners of all property to be assessed and include in such notice the amount of the assessment for each such property owner, a description of the areas to be improved and notice that information concerning all assessments may be ascertained at the District Office. The District Manager shall file proof of such mailing by affidavit with the District Secretary.

3. This Resolution shall become effective upon its passage.

PASSED AND ADOPTED on this 26th day of March, 2020.

Attest:

**Berry Bay Community
Development District**

Printed Name: _____
Secretary / Assistant Secretary

Printed Name: _____
Chair of the Board of Supervisors

RESOLUTION 2020-25

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BERRY BAY COMMUNITY DEVELOPMENT DISTRICT GRANTING THE CHAIRMAN THE AUTHORITY TO EXECUTE REAL AND PERSONAL PROPERTY CONVEYANCE AND DEDICATION DOCUMENTS, PLATS AND OTHER DOCUMENTS RELATED TO THE DEVELOPMENT OF THE DISTRICT'S IMPROVEMENTS; APPROVING THE SCOPE AND TERMS OF SUCH AUTHORIZATION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Berry Bay Community Development District (the "District") is a local unit of special purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, and situated within Hillsborough County, Florida; and

WHEREAS, Chapter 190, *Florida Statutes*, authorizes the District to construct, install, operate, and/or maintain systems and facilities for certain basic infrastructure, including roadways, stormwater management facilities, water, sewer and irrigation utility facilities, offsite improvements, landscaping, street lighting, and recreational facilities; and

WHEREAS, the District has previously adopted an Engineer's Report dated _____ (the "Engineer's Report"), which sets forth the scope of the District's capital improvement plan and the improvements which are to be constructed thereto (the "Improvements"); and

WHEREAS, in connection with the development of the Improvements in accordance with the Engineer's Report, which includes, but is not limited to, obtaining all necessary permits and approvals from local governments and agencies for the construction and/or operation of infrastructure improvements, the District is required, from time to time, to accept, convey and dedicate certain interests in real and personal property, including, but not limited to easements, plat dedications, deeds and bills of sale for infrastructure improvements (the "Permits and Conveyances"); and

WHEREAS, to facilitate the efficient development of the Improvements, the District desires to authorize the Chairman to approve and execute the Permits and Conveyances necessary to finalize the development of the District's capital improvement plan (the "Conveyance Authority"); and

WHEREAS, the Conveyance Authority shall be subject to the District Engineer and District Counsel agreeing that each such proposed Permit or Conveyance is legal, consistent with the District's improvement plan and necessary for the development of the Improvements; and

WHEREAS, the Board of Supervisors finds that granting to the Chairman the Conveyance Authority is in the best interests of the District so that the development of the Improvements may proceed expeditiously, subject to the terms and limitations imposed by this Resolution.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD
OF SUPERVISORS OF THE BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT:**

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

SECTION 2. DELEGATION OF AUTHORITY. The Chairman of the District's Board of Supervisors is hereby authorized to sign, accept or execute Permits and Conveyances as defined above. The Vice Chairman, Secretary, and Assistant Secretary of the District's Board of Supervisors are hereby authorized to countersign any such Permits and Conveyances signed by the Chairman. Such authority shall be subject to the District Engineer and District Counsel's review and approval.

SECTION 3. SEVERABILITY. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 26th DAY OF MARCH, 2020.

ATTEST:

**BERRY BAY COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairman

ADA Site Compliance, LLC



Statement of Work (SOW) Agreement to Perform Consulting Services

Date

March 18, 2020

Services Performed By:

ADA Site Compliance, LLC

Services Performed For:Berry Bay CDD

This Statement of Work (SOW) is issued pursuant to the Master Services Agreement (“MSA”) between Berry Bay CDD (“Customer”) and ADA Site Compliance, LLC (“Contractor”), effective March 18, 2020 (the “Agreement”). This SOW is subject to the terms and conditions contained in the Agreement between the parties and is made a part thereof. Any term not otherwise defined herein shall have the meaning specified in the Agreement. In the event of any conflict or inconsistency between the terms of this SOW and the terms of the Agreement, the terms of the MSA shall govern and prevail.

This SOW, effective as of March 18, 2020, is entered into by and between Contractor and Customer for Customer’s website and is subject to the terms and conditions specified below. The exhibit(s) to this SOW, if any, shall be deemed to be a part hereof. In the event of any inconsistencies between the terms of the body of this SOW and the terms of the exhibit(s) hereto, the terms of the SOW shall prevail.

Process & Engagement

Contractor uses both technological (i.e. software-based) and human expert auditing to detect compliance failures for websites, mobile applications, PDFs, and other digital assets. Contractor evaluates their accessibility against evolving web content accessibility guidelines (currently WCAG 2.1) and offers the solutions below. Contractor will deliver a website that has been audited and remediated for substantial compliance with current standards.

Contractor will migrate Customer’s existing site to an accessible and compliant theme that Contractor has built and maintains. Customer will own all site content and provide hosting, backup, and document management for the site. Post-migration, Contractor’s audit and design teams will continuously monitor Customer’s new website for its substantial compliance with current standards.

Throughout the process and afterward, Customer will receive technological audit reports that identify all errors that software can detect. As noted above, software-based reports alone cannot identify 100% of accessibility failures; at

best, they can uncover about one-third of them. As such, Customer's technological reports are intended only as a general diagnostic of the site's ongoing compliance health – not as a measure of its overall accessibility.

Scope of Work & Deliverables

Contractor shall provide the following services/deliverables for Customer and its site, www.berrybaycdd.com

Technological Auditing

- Customized software-based auditing of the entire web domain.
- Detailed quarterly audit reports including the precise location in the code of each failure, a description of the error, a picture for visual context, and a suggested remediation step.
- Technological audit reports capture approximately one-third of known failures and are intended as a broad diagnostic and accountability tool, not as a full compliance blueprint.

Site Migration

- Contractor will migrate the content of Customer's existing website to one built on Contractor's own themes that are known to be accessible and compliant with WCAG 2.1 standards.
- Some existing functionality and content, including that provided by third-party vendors, may be impossible to migrate "as is" from the existing site to the new one, in which case another solution may be required.
- Review by Contractor's technical team leaders of the migrated site for quality assurance.

Customized Accessibility Policy & Compliance Shield

- Indication of Customer's active engagement with recognized experts in the field of website accessibility and compliance; the deliverable is uploaded to the footer of Customer's website and acts as a deterrent to litigation from trolling plaintiffs and/or attorneys.
- Statement of Customer's specific ongoing strides toward compliance with current WCAG standards – to be posted on the website (links to ADA Compliance Shield).
- Alternate contact info for users to report inaccessible areas of Customer's website and to request assistance – to be posted on the website (links to ADA Compliance Shield).

Technical Support

- Two (2) hours of technical support via email, phone, video, and (where feasible) in-person contact.

Fee Schedule

The fee for services described in this SOW is \$2,900, which is due within 14 days of the Agreement's execution by both parties. The annual fee for Customer's continued use of Contractor's Compliance Shield and accessibility policy; updates made to the accessibility policy to reflect changing standards and laws; quarterly technological auditing and reporting, and continued consulting is \$1,500, to be paid in full one (1) year after the execution date of this SOW.

Signatures

In witness whereof, the Parties have, by their duly authorized representatives, executed this SOW as of the date first set forth above.

ADA SITE COMPLIANCE, LLC

BERRY BAY CDD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

MASTER SERVICES AGREEMENT
ADA SITE COMPLIANCE, LLC

This Master Services Agreement (this "Agreement") is entered into as of March 18, 2020, between Berry Bay CDD, a unit of government, with a place of business and notice address at 2005 Pan Am Circle, Suite 300, Tampa, FL 33607 ("Customer") and ADA Site Compliance, LLC, a Delaware limited liability company authorized to do business in Florida, with a place of business and notice address at 6400 Boynton Beach Boulevard, No. 742721, Boynton Beach, FL 33474 ("ADASC"), and shall become effective upon Customer and ADASC executing a Statement of Work, which shall be attached to this Agreement and incorporated herein by this reference. Customer and ADASC may also each be referred to herein individually as a "Party," and collectively as the "Parties."

IN CONSIDERATION of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, wishing to be legally bound by this Agreement, agree as follows:

1. PRODUCTS AND SERVICES.

1.1. Statement(s) of Work. Pursuant to this Agreement, ADASC shall provide Customer with ADASC's website and web application technological and/or human expert accessibility auditing and related services ("Services") and products and/or software (collectively, as applicable, the "Products") set forth in one or more Statements of Work to be mutually executed by the Parties that reference and are subject to the terms of this Agreement (each, a "SOW"). In return for such Services, Products, and Deliverables (hereinafter defined) **(collectively, the "Services")**, Customer shall pay ADASC the fees and expenses set forth in the applicable SOW/Proposal in accordance with the payment terms set forth therein.

1.2. Customer Requested Changes. At any time, Customer may request a change to the Services that have been described in a SOW (in each case, a "Change"). Upon receipt of a Change request from Customer, ADASC agrees to respond in writing within five (5) business days of its receipt thereof, advising Customer of any additional cost, scheduling, or other impacts on the Services arising from the requested Change. If the Parties agree to proceed with any requested Change, the terms associated with such Change must be incorporated into an amendment to the applicable SOW that is mutually executed by the Parties prior to ADASC's **implementation of the Change**. If the Parties do not agree to proceed with any requested Change, the Parties shall continue to operate in accordance with the terms of the then-existing Agreement and SOW(s).

1.3. Deliverables. Unless otherwise provided in a SOW, with respect to any compliance audit reports, data, software, tools, remediation services or other works of any kind designated to be made, conceived, or developed by ADASC in connection with a SOW (collectively, as applicable, the "Deliverables"), Customer shall have the right to review such Deliverables upon their

completion by ADASC only to determine if they conform to the applicable written specifications stated in the SOW (collectively, the "Acceptance Criteria"). Customer will notify ADASC within seven (7) business days of delivery of the Deliverables if, **in Customer's good faith determination**, the Deliverables have not met the Acceptance Criteria, and that therefore acceptance has not occurred. In the event acceptance of any Deliverables does not occur, ADASC will, at its cost, make any necessary changes to the Deliverable within a commercially reasonable time frame so that they conform to the Acceptance Criteria, and resubmit the Deliverables to Customer. If Customer does not, however, notify ADASC within seven (7) business days of the delivery of any Deliverables that such Deliverables have not met the Acceptance Criteria, the Deliverable shall be deemed to conform to the specifications in the applicable SOW, and to have been accepted by Customer.

2. INVOICES AND PAYMENTS.

2.1. Invoices. All payments are due within Thirty (30) days of the execution of the proposal. Customer will reimburse ADASC for travel and other pre-approved expenses. All payments required by this Agreement are exclusive of federal, state or other governmental taxes and excises, and Customer will be responsible for all such taxes and amounts and agrees to defend and hold ADASC harmless from any claim against ADASC for any such amount.

2.2. Disputed Amounts. Late payments (other than Disputed Amounts that are determined not to be in fact due or owing to ADASC) not received within five (5) days of the due date stated in all applicable SOWs will be subject to a late fee of 1.5% per month on all unpaid balances. Customer agrees that it will be responsible for all of ADASC's costs and expenses, including collection agency fees, court costs, and reasonable attorneys' fees, incurred by ADASC to collect any monies owed by Customer or to otherwise enforce the terms of this Agreement. ADASC reserves the right to suspend or terminate Services and to withhold Deliverables immediately without notice for non-payment of monies owed under this Agreement.

Customer may only withhold payment of amounts that it in good faith disputes to be due or owing ("Disputed Amounts"). In such case, Customer shall nonetheless pay any undisputed amounts and provide to ADASC a sufficiently detailed written explanation of the basis for its withholding of the Disputed Amounts no later than ten (10) days after their due date. Any controversy relating to amounts owed by Customer hereunder shall be considered a "Dispute" (defined below) and subject to the resolution procedures provided in this Agreement. If it is determined that any Disputed Amounts are in fact owed to ADASC, Customer shall pay to ADASC such Disputed Amounts within five (5) days of such resolution, plus any applicable late fees, interest, and/or **ADASC's reasonable** costs of collection. To the extent the provisions of this section conflict with the **State's** Prompt Payment Act or the **Customer's** adopted

dispute resolution procedures pursuant thereto, the Prompt Payment Act and such adopted procedures shall control.

3. TERM AND TERMINATION.

3.1. Term. This Agreement shall become effective when Customer and ADASC first execute a Proposal or SOW and shall remain in effect until terminated as provided herein ("Term").

3.2. Termination by either Party for Cause. This Agreement and/or any individual SOW may be terminated by either Party (i) in the event the other Party fails to cure or take reasonable steps to cure a breach of any material term of this Agreement or any applicable SOW within ten (10) business days of receipt of written notice describing such breach; or (ii) immediately upon the giving of written notice by such Party in the event the other Party is adjudged insolvent or bankrupt, or upon the institution of any proceeding against the other Party seeking relief, reorganization, or arrangement under any laws relating to insolvency, or upon the appointment of a receiver, liquidator, or trustee of any of the other Party's property or assets, or upon liquidation, dissolution, or winding up of the other Party's business.

3.3 Termination Without Cause. Either Party may terminate without cause upon sixty (60) days prior written notice to the other Party. However, upon any termination of this Agreement, ADASC shall be entitled to payment for all Services rendered up until the effective termination of this Agreement, subject to any amounts being under Dispute, which shall be addressed in accordance with Section 8.3 of this Agreement.

3.4 Transition Services. ADASC shall work with the Customer to ensure a seamless and smooth transition in the event of termination, with or without **cause, to the Customer's contracted entity ("Contracted Entity")** assisting with the transition of the Services after termination ("Transition Services"); provided, however, that ADASC shall only be required to provide such Transition Services for a reasonable amount of time, not to exceed one (1) month after the effective date of the termination. **Upon Customer's request,** ADASC shall include as part of its Transition Services consultations with the Contracted Entity, provided that ADASC shall be entitled to payment for such consultations at a rate of \$250 per hour. If any other Transition Services are provided, ADASC shall be reimbursed for such services at a price mutually agreed to by the Parties.

3.5 Support Services. Notwithstanding any of the provisions under Section 3.4, in the event of termination of this Agreement by either party for any reason, all Services performed by ADASC shall immediately cease. ADASC will not continue to provide support for the ADASC Theme, including but not limited to, any updates, modifications, improvements, audits, use of the ADASC

compliance shield, or any Services more particularly set forth in the Proposal or SOW.

4. REPRESENTATIONS, WARRANTIES & COVENANTS

4.1. General. The essence of this Agreement is the following: ADASC represents, warrants, and covenants that (a) the Services shall be performed and/or provided by qualified personnel in a professional and workmanlike manner; and (b) the Services provided by ADASC shall not infringe, misappropriate, or otherwise violate the intellectual property rights of any third party. Each Party also represents and warrants that it has the full right and authority to enter into this Agreement and perform its obligations hereunder.

4.2. Disclaimer of All Other Warranties. CUSTOMER ACKNOWLEDGES THAT ASSESSING ACCESSIBILITY AND REMEDIATION IS HIGHLY COMPLEX, SUBJECTIVE AND CHANGEABLE, AND AS SUCH, ACHIEVING ABSOLUTE OR TOTAL COMPLIANCE IS DIFFICULT WITHOUT CLEAR REGULATORY GUIDANCE. THEREFORE, ADASC MAKES NO WARRANTY THAT THE SERVICES WILL FIND ALL **ACCESSIBILITY CONCERNS IN CUSTOMER'S WEBSITES, APPS, PDFS, OR SERVER(S)**, OR THAT THE SOLUTIONS SUGGESTED AND ADVICE PROVIDED IN ANY REPORT ADASC MAY PROVIDE TO CUSTOMER FROM TIME TO TIME WILL BE COMPLETE OR ERROR-FREE. WHILE TECHNOLOGICAL AUDITING SUCH AS THAT PROVIDED BY ADASC (WHICH TYPICALLY CAN DETECT APPROXIMATELY 30% OF ACCESSIBILITY ISSUES) MAY BE A GOOD STARTING POINT IN **CUSTOMER'S EFFORTS TOWARD COMPLIANCE, HUMAN EXPERT** AUDITING IS ALSO NECESSARY. ADASC STRONGLY RECOMMENDS THAT CUSTOMER REGULARLY ENGAGE IN HUMAN EXPERT AUDITING AND TECHNOLOGICAL AUDITING OF ITS WEBSITE(S), APPLICATION(S), AND SERVER(S) IN ORDER TO ASSURE THE HIGHEST POSSIBLE LEVEL OF ACCESSIBILITY, COMPLIANCE, AND USABILITY; NEVERTHELESS CUSTOMER ACKNOWLEDGES THAT EVEN WITH THE RECOMMENDED UTILIZATION OF BOTH TECHNOLOGICAL AUDITING SERVICES AND ROUTINE HUMAN AUDITS, ABSOLUTE OR TOTAL COMPLIANCE REMAINS DIFFICULT WITHOUT CLEAR REGULATORY GUIDANCE. ADASC DOES NOT GUARANTY ANY SPECIFIC LEVEL OF ACCESSIBILITY OR COMPLIANCE AND ASSUMES NO RESPONSIBILITY IN THE EVENT A CLAIM IS MADE AGAINST CUSTOMER BASED UPON OR ALLEGING A LACK OF OR FAILURE IN ACCESSIBILITY OR COMPLIANCE WITH APPLICABLE ACCESSIBILITY LAWS, REGULATIONS, AND/OR STANDARDS. ADASC SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR

WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

4.3. Customer's Covenant of Compliance with Laws. Customer is responsible for complying with applicable laws pertaining to Customer's website, web applications, and business, including, without limitation, tax laws, laws governing electronic commerce, and US Export laws.

5. CONFIDENTIALITY.

5.1 Confidentiality. Customer and ADASC each agree to hold Confidential Information in confidence and not to disclose it to any third party without the prior written consent of the other party. Customer and ADASC agree to use the Confidential Information only for the purpose of performing under this Agreement. Further, the receiving party shall use the same degree of care it uses with respect to its own Confidential Information to prevent the unauthorized disclosure to a third party of any Confidential Information of the disclosing party, but in no event less than reasonable care. As used in this Agreement, "Confidential Information" shall mean non-public, proprietary ADASC Material, and which is considered non-public and confidential under State Statutes, and other law, and which is disclosed by ADASC or on its behalf whether before, on or after the date hereof, directly or indirectly, in writing, orally, by visual inspection or otherwise, to Customer or any of its employees or agents. The ADASC Theme (as defined herein) is deemed Confidential Information. Customer Confidential Information shall mean any material made confidential pursuant to State Statutes. The obligations to protect Confidential Information under this section shall not apply to information which: (a) is or becomes publicly known through no act or failure to act on the part of the receiving party; (b) was rightfully in the receiving party's possession prior to disclosure by the disclosing party; (c) became rightfully known to the receiving party, without confidentiality restrictions, from a source other than the disclosing party; (d) is approved by the disclosing party for disclosure; (e) is or was developed independently by the receiving party without use of the Confidential Information and without violation of any confidentiality restriction; (f) is required to be disclosed by law; or (g) is work product paid for by the Customer pursuant to this Agreement and not deemed ADASC Material hereunder.

6. INTELLECTUAL PROPERTY.

6.1. ADASC Materials. Except as provided herein, as between the Parties, ADASC shall retain all right, title, and interest in and to (i) all patents, trademarks, service marks, copyrights, trade secrets, know-hows, and other intellectual property or proprietary rights (collectively, "IP") of ADASC used in or otherwise associated with the Services provided to Customer hereunder, and (ii) all trade secrets, technical specifications, and data to the extent they are IP

and inventions which are authored, conceived, devised, developed, reduced to practice, or otherwise performed by ADASC, none of which shall be deemed a "work made for hire" under the Copyright Act of 1976 (collectively "ADASC Materials"), and nothing contained herein shall be construed to restrict, impair, transfer, license, convey, or otherwise alter or deprive ADASC of any of its intellectual property or other proprietary interests associated therewith. The ADASC Materials shall include (i) any website theme and specialized coding for such theme authored, conceived, devised, developed, modified, and/or reduced to practice by ADASC **outside of ADASC's performance** under this Agreement (**the "ADASC Theme"**) and (ii) any specialized coding for the ADASC Theme authored, conceived, devised, developed, modified, and/or reduced to practice by ADASC under this Agreement, but shall not include any other website theme and the coding of such theme authored, conceived, devised, developed, modified, and/or reduced to practice by ADASC pursuant to an SOW or Customer as a derivative work. Subject to the foregoing, and **Customer's payment of the** applicable fees set forth in an SOW or Proposal, ADASC grants Customer a non-exclusive, non-transferable worldwide limited right and license to access and use the Deliverables and the ADASC Materials in connection with the ordinary and intended use by Customer thereof as provided hereunder and in the applicable SOW ("Single Use License"). The Single Use License set forth in the immediately preceding sentence (x) includes **Customer's right to view, download, and print the Deliverables for Customer's** use, and without in any case removing ADASC's **copyright, trademark**, or other intellectual property ownership notices; (y) is limited to only one Customer website, **and (z) includes Customer's right to use the ADASC Theme, in whole or in part, to develop derivative works on Customer's one website.** Notwithstanding the Single Use License granted to Customer under this Section, under no circumstances may the Products, Deliverables, or ADASC Materials, or any portion thereof or any derivative work, be used as the basis for creating a product that is intended for sale, license, or distribution to others (regardless of whether such distribution is for profit or free) in a manner that would compete, directly or indirectly, with ADASC in offering the Products, Deliverables, or ADASC Materials for sale, license or distribution. Customer has no right to distribute the ADASC Theme, whether modified or unmodified, to any third party. The use of the Products, Deliverables and/or ADASC Materials in contravention of the Single Use License granted under this Section is strictly prohibited and will be deemed a material breach of this Agreement.

6.2. Customer Materials; Publicity and Trademarks. (A) Notwithstanding anything else provided in this Agreement, Customer shall own the website, **the website's** domain name and all related uniform resource locators, and all website and application content, including without limit, all documents, content, pictures, video, audio, and text on the website, authored, conceived, devised, developed, modified, and/or reduced to practice by ADASC pursuant to this Agreement, and all metadata associated therewith, created or modified by ADASC pursuant to this Agreement and/or provided or made available by Customer to ADASC, under all circumstances ("Customer

Materials”). In the event of a termination of this Agreement for any reason, ADASC shall take all necessary steps to transfer, or otherwise allow Customer to retain such Customer Materials as further provided in Section 3.

(B) Notwithstanding anything provided in Section 6.2(A), the ADASC Theme and any specialized coding for the ADASC Theme authored, conceived, devised, developed, modified, and/or reduced to practice by ADASC under this Agreement is ADASC Material. In the event of termination of this Agreement for any reason, the Single Use License defined under Section 6.1 of this Agreement shall immediately terminate, and the Transition Services under Section 3.4 shall come into effect.

(C) Customer will not, at any time, have the right or license to, and agrees that **it will not, without ADASC’s prior written consent, manufacture, sell, or** otherwise distribute a device, service, or product that was developed or manufactured using any ADASC Intellectual Property, either for its own account or for any third party, or assist any third party in so doing. Customer agrees that it will not engage in, nor will it authorize others to engage in, the reverse engineering, disassembly, decompilation, or the recompilation of any ADASC Intellectual Property except as permitted under this Agreement.

(D) Additionally, to the extent applicable, ADASC shall take commercially reasonable precautions consistent with industry standards to protect confidential information, including, e.g., credit card information and other sensitive information protected under the State’s Public Records Laws. Except as provided herein, as between the Parties, Customer shall retain all right, title, and interest in and to all IP of Customer provided or made available to ADASC in connection with ADASC’s **Services (collectively in this paragraph, “Customer IP”)** and nothing contained herein shall be construed to restrict, impair, transfer, license, convey, or otherwise alter or deprive Customer of any of its IP or other proprietary interests associated therewith, if any. Subject to the foregoing, Customer grants ADASC a non-exclusive, non-transferable worldwide limited right and license to access and use such Customer IP in connection with the provision of the Services to Customer hereunder. Further, Customer permits ADASC to identify Customer as a customer of ADASC in ADASC’s **marketing materials (including using Customer’s name and logo for** such limited purposes).

(E) Customer further acknowledges and agrees that for ADASC to perform the Services, it must, in some cases, give ADASC remote access to areas behind logins that are to be audited hereunder, including, without limitation to content **management systems and/or servers (collectively, the “System”), and agrees** that it will furnish to ADASC all necessary information and/or user names and passwords required to do so. ADASC agrees to follow commercially reasonable **security policies for accessing Customer’s System including any specific** security procedures as may be communicated to ADASC by Customer in writing prior to ADASC accessing the System. ADASC hereby recognizes that all data

may be a public record and therefore is required to be retained unless otherwise directed in writing by the Customer.

6.3 Right to Display ADASC Compliance Shield / Accessibility Policy. Customer may display an ADASC-provided compliance shield and customized accessibility policy on its websites or web applications. The provided ADASC compliance shield and customized accessibility policy shall remain under the full ownership and control of ADASC. ADASC shall retain the right at any time and in its sole discretion to withdraw its authorization to display such compliance shield and customized accessibility policy. Customer is expressly prohibited from using an ADASC compliance shield and customized accessibility policy for any purpose not specifically authorized by this Agreement or by an applicable SOW, and in no event may use such shield for or on behalf of any other party or in connection with any domain name and/or organization name other than those being serviced in connection with the Services.

6.4 Recording of Training Sessions. Customer shall not record any training session(s) relating to the Services provided without the prior written consent of ADASC. ADASC shall retain all intellectual property rights to the recorded material and grants Customer a Limited License to display, share, and/or incorporate into its own training material, the recorded material for current and future employees of Customer. Customer shall not, including but not limited to, display, share, assign, license, sell, or otherwise disseminate the recorded material to any third party, including but not limited to, any parent company, subsidiary, associated department, subdivision, affiliates, committee, officer, board of directors, governing body, or any entity not in direct privity of this Agreement, any recorded materials under this Limited License.

This Limited License shall remain in effect in perpetuity, or so long as Customer, as an entity, remains intact and has not altered its structure. In the event of, including but not limited to, any merger, buy-out, acquisition, or any event that may change, alter, or compromise the status of Customer, Customer shall request and obtain a new license from ADASC prior to the continued use of any and all recorded materials.

6.5 Derivative Works. All rights, title, copyright, and interest in all Derivative Works and improvements created by, or on behalf of, Customer will be the property of Customer so long as the Works do not violate the language set forth in Section 5 or Section 6 of this Agreement. Customer shall be entitled to protect intellectual property in all such derivative works and improvements as it may see fit, including by seeking copyright or patent protection. Notwithstanding the immediately preceding sentence, Customer may mark with its own copyright notice and register copyrights in derivative works as works that constitute original works of authorship, so long as such derivative

works are identified in such registration as based upon pre-existing works of ADASC.

7. INDEMNITY.

7.1 ADASC agrees to indemnify and hold harmless the Customer and its officers, supervisors, staff, employees, successors, assigns, members, affiliates, attorneys or representatives from any and all liability, claims, actions, suits, liens, demands, costs, interest, expenses, damages, penalties, fines, or judgments against the Customer, or loss or damage, whether monetary or otherwise, including but not limited to an ADA website related claim by a third-party, arising out of, wholly or in part by, ADASC's willfully reckless or willfully negligent act or omission.

7.2 Neither Party shall be liable to the other Party for consequential damages or lost profits pursuant to this Agreement.

7.3 Notwithstanding any provision to the contrary within this Agreement, Customer does not waive any Sovereign Immunity or the limitations contained in State Statutes, or any successor statute or statutes thereto, or other provisions of law.

8. GENERAL PROVISIONS.

8.1. Order of Precedence. The terms of this Agreement and any SOW are intended to complement each other, and to the extent they conflict, the terms of any SOW shall supersede conflicting terms and conditions in this Agreement, but solely with respect to Services provided pursuant to such SOW.

8.2. Subcontractors. Unless otherwise provided in a SOW, ADASC may provide Services hereunder through subcontractors and/or affiliates and such subcontractors and/or affiliates shall be bound by the terms of this Agreement.

8.3. Dispute Resolution. Before initiating any legal claim or action (except with respect to equitable relief), the Parties agree to attempt in good faith to settle any dispute, controversy, or claim arising out of or related to this Agreement or the Services (collectively, a "Dispute") through discussions which shall be initiated upon written notice of a Dispute by either Party to the other Party. If the Parties cannot resolve the Dispute within fifteen (15) business days, then the Parties shall attempt to settle the Dispute by mediation. If mediation is unsuccessful, the Parties may then proceed to filing a claim in the appropriate jurisdictional court. The Parties hereby consent to the exclusive jurisdiction of the federal and state courts in Palm Beach County, Florida for purposes of any claims for equitable relief or claim in anyway related to this Agreement and waive any defense of inconvenient forum or venue. The prevailing party in any such dispute shall be entitled to claim its costs and fees

incurred in litigating any such dispute, including reasonable attorney's fees, court, and experts' costs through all appeals.

8.4. Status. ADASC is an independent contractor and not an employee, agent or representative of Customer. Nothing in this Agreement shall be construed as creating an employer-employee, partnership, joint venture or agency relationship.

8.5. Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed duly given if delivered to a Party at its address set forth in the preamble of this Agreement (or the most recent address provided by such Party for notice purposes) by (i) hand delivery, (ii) certified mail, postage prepaid, return receipt requested, or (iii) recognized overnight delivery service. A notice shall be deemed received on date of delivery, if hand delivered or **delivered by overnight delivery service (as reflected in the carrier's records)**, or five (5) days from date of mailing, if mailed by certified mail.

8.6. Entire Agreement; Severability. This Agreement, together with any SOWs, sets forth the entire agreement of the Parties, and supersedes any prior agreements or statements with respect to the subject matter hereof. If any part of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions of this Agreement will remain in full force and effect and the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision.

8.7. Assignment. This Agreement may not be assigned by Customer except with the prior written consent of ADASC. ADASC may assign this Agreement **without Customer's consent** to the purchaser in connection with a sale of ADASC's business, provided the purchaser agrees to assume all obligations of ADASC hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties' successors and lawful permitted assigns.

8.8. Amendments and Waivers. This Agreement may be amended or modified only by a written instrument duly executed by each Party. No breach of any term of this Agreement shall be deemed waived unless expressly waived in writing by the Party who might assert such breach. Any failure or delay by either Party to exercise any right, power, or privilege under the Agreement shall not be deemed a waiver of any such right, power, or privilege under the Agreement on that or any subsequent occasion.

8.9. Governing Law. This Agreement shall be governed by the laws of the State of Florida, without reference to conflicts of law principles that would cause the application of the law of any other jurisdiction.

8.10. Force Majeure. If either Party is prevented from performing any of its obligations under this Agreement due to any cause beyond the Party's

reasonable control, including, without limitations, an “act of God,” fire, flood, war, strike, government regulation, civil or military authority, acts or omissions of transmitters, utilities, providers or hackers, the time for that Party's performance will be extended for the period of the delay or inability to perform due to such occurrence.

8.11. Survival. In addition to such other provisions hereof which, by their terms, survive any termination or expiration of this Agreement, Section 4 (Representations, Warranties & Covenants), Section 5 (Confidentiality), Section 6 (Intellectual Property), Section 7 (Indemnity), Section 8 (General Provisions), **and Customer's payment obligations under any Proposal or SOW** shall survive any termination or expiration of this Agreement.

8.12 Waiver Any waiver by either Party, whether express or implied, of any provision of this Agreement, any waiver of default, or any course of dealing **hereunder, shall not affect such Party's right to thereafter enforce such** provision or to exercise any right or remedy in the event of any other default or breach, whether or not similar.

8.13 Counterparts. By using ADASC's **Services**, Customer consents to have this Agreement provided in electronic/digital form. Please print a copy of this document for your records. This Agreement and any modification may be executed and delivered (including by facsimile, portable document format (.pdf) transmission, or via any online e-signature platform) in one or more counterparts, and by each Party in separate counterparts, each of which when executed will be deemed to be an original, and all of which taken together will constitute one and the same Agreement.

8.14 No Construction Against the Drafter. In the interpretation of this **Agreement, the ‘contra proferentem’** rule of contract construction shall not apply, this Agreement being the product of negotiations between commercially sophisticated Parties, and therefore shall not be interpreted in favor of or against any Party by the sole reason of the extent to which such Party or its professional advisors participated or did not participate in the drafting of this Agreement.

8.15 Headings. Headings included herein are for convenience only and shall not be used to construe or interpret this Agreement.

8.16 Public Records. ADASC understands and agrees that all documents of any kind provided to the Customer in connection with this Agreement may be public records, and accordingly, ADASC agrees to comply with all applicable provisions of State law in handling such records. ADASC acknowledges that the designated public records custodian for the Customer is _____ **(“Public Records Custodian”). Among other** requirements and to the extent applicable by law, ADASC shall: 1) keep and maintain public records required by the Customer to perform the service; 2)

upon request by the Public Records Custodian, provide the Customer with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in State Statutes; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if ADASC does not transfer the records to the Public Records Custodian of the Customer; and 4) upon completion of the contract, transfer to **the Customer, at no cost, all public records in ADASC's possession or**, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to State laws. When such public records are transferred by ADASC, ADASC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to Customer in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF ADASC HAS QUESTIONS REGARDING THE APPLICATION OF STATE **STATUTES, TO ADASC'S DUTY TO PROVIDE PUBLIC** RECORDS RELATING TO THIS CONTRACT, CONTACT THE PUBLIC RECORDS CUSTODIAN AT

_____,
_____.COM, OR
_____.

IN WITNESS WHEREOF, the Parties have, by their duly authorized representatives, executed this Master Services Agreement as of the date first set forth above.

ADA SITE COMPLIANCE, LLC

BERRY BAY CDD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____