



**HYPOLUXO/HAVERHILL  
COMMUNITY DEVELOPMENT  
DISTRICT**

**PALM BEACH COUNTY  
REGULAR BOARD MEETING  
OCTOBER 10, 2023  
9:00 A.M.**

Special District Services, Inc.  
The Oaks Center  
2501A Burns Road  
Palm Beach Gardens, FL 33410

[www.hypoluxohaverhillcdd.org](http://www.hypoluxohaverhillcdd.org)

561.630.4922 Telephone  
877.SDS.4922 Toll Free  
561.630.4923 Facsimile

**AGENDA**  
**HYPOLUXO/HAVERHILL**  
**COMMUNITY DEVELOPMENT DISTRICT**  
Special District Services, Inc. Conference Room  
2501A Burns Road,  
Palm Beach Gardens, FL 33410  
**REGULAR BOARD MEETING**  
October 10, 2023  
9:00 a.m.

- A. Call to Order
- B. Proof of Publication.....Page 1
- C. Establish Quorum
- D. Additions or Deletions to Agenda
- E. Comments from the Public for Items Not on the Agenda
- F. Approval of Minutes
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- G. Old Business
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- H. New Business
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- I. Administrative Matters
- J. Board Members Comments
- K. Adjourn

# The Palm Beach Post

## Public Notices

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HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT

FISCAL YEAR 2023/2024

REGULAR MEETING SCHEDULE

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the Hypoluxo/Haverhill Community Development District will hold Regular Meetings in the Conference Room of Special District Services, Inc. located at 2501A Burns Road, Palm Beach Gardens, Florida 33410 at 9:00 a.m. on the following dates:

October 10, 2023

November 7, 2023

December 12, 2023

January 9, 2024

February 13, 2024

March 12, 2024

April 9, 2024

May 14, 2024

June 11, 2024

July 9, 2024

August 13, 2024

September 10, 2024

The purpose of the meetings is to conduct any business coming before the Board.

Meetings are open to the public and will be conducted in accordance with the provisions of Florida law. Copies of the Agendas for any of the meetings may be obtained from the District's website or by contacting the District Manager at (561) 630-4922 and/or toll free at 1-877-737-4922 prior to the date of the particular meeting.

From time to time one or more Supervisors may participate by telephone; therefore a speaker telephone will be present at the meeting location so that Supervisors may be fully informed of the discussions taking place. Meetings may be continued as found necessary to a time and place specified on the record.

If any person decides to appeal any decision made with respect to any matter considered at these meetings, such person will need a record of the proceedings and such person may need to insure that a verbatim record of the proceedings is made at his or her own expense and which record includes the testimony and evidence on which the appeal is based.

In accordance with the provisions of the Americans with Disabilities Act, any person requiring special accommodations or an interpreter to participate at any of these meeting should contact the District Manager at (561) 630-4922 and/or toll-free at 1-877-737-4922 at least seven (7) days prior to the date of the particular meeting.

Meetings may be cancelled from time to time without advertised notice.

HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT

[www.hypoluxohaverhillcdd.org](http://www.hypoluxohaverhillcdd.org)

9/29/2023 #9318458

HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT  
PUBLIC HEARING & REGULAR BOARD MEETING  
AUGUST 4, 2023

**A. CALL TO ORDER**

District Manager Michael McElligott called the August 4, 2023, Regular Board Meeting of the Hypoluxo/Haverhill Community Development District to order at 9:00 a.m. in the Conference Room of Special District Services, Inc. located at 2501A Burns Road, Palm Beach Gardens, FL, 33410.

**B. PROOF OF PUBLICATION**

Mr. McElligott presented proof of publication that notice of the Regular Board Meeting had been published in *The Palm Beach Post* on July 14, 2023, and July 21, 2023, as legally required.

**C. ESTABLISH A QUORUM**

Mr. McElligott determined that the attendance of the following Supervisors constituted a quorum, and it was in order to proceed with the meeting: Chair Tom Messler, and Supervisors Brett Osinski and Ashkan Dehghani.

Staff in attendance were District Manager Michael McElligott of Special District Services, Inc., and District Counsel Scott Cochran of Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

**D. ADDITIONS OR DELETIONS TO THE AGENDA**

There were no additions or deletions to the agenda.

**E. COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

There were no comments from the public for items not on the agenda.

**F. APPROVAL OF MINUTES**

**1. April 11, 2023, Regular Board Meeting**

Mr. McElligott presented the minutes of the April 11, 2023, Regular Board Meeting and asked if there were any changes. There being no changes, a **motion** was made by Mr. Osinski, seconded by Mr. Messler and unanimously passed to approve the minutes of the April 11, 2023, Regular Board Meeting, as presented.

Mr. McElligott then opened the Public Hearing at 9:04 am.

**G. PUBLIC HEARING**

**1. Proof of Publication**

Mr. McElligott presented proof of publication that notice of the Public Hearing had been published in *The Palm Beach Post* on July 14, 2023, and July 21, 2023, as legally required.

HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT  
PUBLIC HEARING & REGULAR BOARD MEETING  
AUGUST 4, 2023

**2. Receive Public Comment on the Fiscal Year 2023/2024 Final Budget**

Mr. McElligott noted that no members of the public were present.

**3. Consider Resolution No. 2023-02 – Adopting a Fiscal Year 2023/2024 Final Budget**

Mr. McElligott presented Resolution No. 2023-02, entitled:

**RESOLUTION NO. 2023-02**

**A RESOLUTION OF THE HYPOLUXO/HAVERHILL COMMUNITY  
DEVELOPMENT DISTRICT ADOPTING A FISCAL YEAR 2023/2024 BUDGET.**

Mr. McElligott gave a brief overview of the Final Budget, which has no changes from the previously approved Proposed Budget. There was some discussion among the Board about future expenses for the lake maintenance.

After a brief discussion, a **motion** was made by Mr. Osinski, seconded by Mr. Messler to adopt Resolution No. 2023-02, as presented. The **motion** carried on a vote of 3 to 0.

**H. OLD BUSINESS**

**1. Update on Tree Trimming Policy**

Mr. McElligott updated the Board that the District Engineer is working on the policy with an outside firm. Mr. McElligott requested that the engineer give the District an estimated cost for the work. Mr. McElligott will bring back that estimate to the next meeting. There were no questions.

**2. Update on Irrigation Permit Policy**

Mr. McElligott reminded the Board that this Policy will primarily just be to request a permit from the District before adding any new, or modifying any existing, irrigation system that pulls from the lake. Mr. Cochran noted that there will have to be a rule making public hearing to adopt this type of policy. Mr. Cochran will look into the advertising requirements and get back with Mr. McElligott on the ad and requirements. Mr. McElligott said they will try to schedule the public hearing for the regular October meeting date.

**I. NEW BUSINESS**

**1. Consider Resolution No. 2023-03 – Adopting a Fiscal Year 2023/2024 Meeting Schedule**

Mr. McElligott presented Resolution No. 2023-03, entitled:

HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT  
PUBLIC HEARING & REGULAR BOARD MEETING  
AUGUST 4, 2023

**RESOLUTION NO. 2023-03**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT, ESTABLISHING A REGULAR MEETING SCHEDULE FOR FISCAL YEAR 2023/2024 AND SETTING THE TIME AND LOCATION OF SAID DISTRICT MEETINGS; AND PROVIDING AN EFFECTIVE DATE.**

There was some discussion regarding keeping the meeting at the current location and time, at the office of Special District Services, Inc. at 9:00am. The consensus of the Board is to keep it this way for the time being.

A **motion** was made by Mr. Osinski, seconded by Mr. Messler and passed unanimously to adopt Resolution No. 2023-03, as presented. That **motion** passed 3-0.

**2. Consider Resolution No. 2023-04 – Adopting a Records Retention Policy**

Mr. McElligott presented Resolution No. 2023-04, entitled:

**RESOLUTION NO. 2023-04**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT, PROVIDING FOR THE APPOINTMENT OF A RECORDS MANAGEMENT LIAISON OFFICER; PROVIDING THE DUTIES OF THE RECORDS RETENTION POLICY; DETERMINING THE ELECTRONIC RECORDS TO BE THE OFFICIAL RECORD; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Mr. McElligott and Mr. Cochran explained the change in statute. They explained that the Board can now take this action to make the electronic copy the official copy of the District. After some discussion, a **motion** was made by Mr. Osinski, seconded by Mr. Messler and passed unanimously to adopt Resolution No. 2023-04 and accepting the electronic record as the official record, as presented. That **motion** passed 3-0.

**3. Discussion Regarding Required Ethics Training**

Mr. McElligott and Mr. Cochran explained a change in the law that will require CDD Board members to complete annual ethics training. This is something the Board will have to start doing in the next year. Staff is looking into options for where / how the Board can complete the training and will come back with recommendations at a later date.

HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT  
PUBLIC HEARING & REGULAR BOARD MEETING  
AUGUST 4, 2023

**J. ADMINISTRATIVE MATTERS**

Mr. McElligott had no other administrative matters.

**K. BOARD MEMBER COMMENTS**

There were no Board Member comments.

**L. ADJOURNMENT**

There being no further business to come before the Board, a **motion** was made by Mr. Dehghani, seconded by Mr. Messler and unanimously passed to adjourn the Regular Board Meeting at 9:24 a.m.

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Secretary/Assistant Secretary

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Chair/Vice-Chair





August 8, 2023

*Via E-mail ([dhearing@cotleur-hearing.com](mailto:dhearing@cotleur-hearing.com))*

Fred Roth, Sr. Vice President  
Michael B. Schorah & Associates  
1850 Forest Hill Boulevard, Suite 206  
West Palm Beach, Florida 33406  
[froth@schorah.com](mailto:froth@schorah.com)  
561-968-0080

**Re: Hypoluxo/Haverhill CDD  
Policy for Landscaping and Maintenance within Lake Maintenance Easement Area  
Proposal P23-365**

Dear Fred:

As you have requested, we have prepared a brief engagement document to assist the Hypoluxo/Haverhill CDD Board in developing an appropriate policy to allow for tree planting and related maintenance within the Lake Maintenance Easement, managed by the District. We look forward to assisting the Board in developing and adopting an appropriate policy. Please let us know if you would like to proceed and we will work out a schedule to meet with yourself and the Hypoluxo/Haverhill CDD Board.

To expedite processing, this Agreement is being sent electronically. Please sign and initial the Agreement on each page where indicated, **complete the Client Billing Instructions**, and return for Cotleur & Hearing's execution. A completed original will be emailed to you for your file.

After you have had the opportunity to review our proposal, should you have any questions, please do not hesitate to contact me at (561) 747-6336 or [dhearing@cotleur-hearing.com](mailto:dhearing@cotleur-hearing.com).

Very truly yours,  
**Cotleur & Hearing**

/mlb

Donaldson E. Hearing, ASLA, LEED® AP  
Principal

Proposal No: P23-365



**AGREEMENT FOR PROFESSIONAL SERVICES**

**Client:** Fred Roth, Sr. Vice President  
Michael B. Schorah & Associates  
1850 Forest Hill Boulevard, Suite 206  
West Palm Beach, Florida 33406  
[froth@schorah.com](mailto:froth@schorah.com)

**Date:** August 8, 2023  
**Client Contact:** Same  
**Proposal No:** P23-365  
**Phone:** 561-968-0080

**Project Name and Location:** Hypoluxo/Haverhill CDD - Policy for Landscaping and Maintenance within Lake Maintenance Easement Area, West Palm Beach

**Description of Services to be provided:** Landscape Architectural Consulting Services in connection with the policy development for tree planting and maintenance within lake maintenance easement areas.

**Retainer:** No retainer required (Payable upon execution of this Agreement)

**Scope of Work:**

**Fee (billed hourly) in accordance with the attached rate schedule  
Plus reimbursable expenses**

**1. Hypoluxo/Haverhill CDD**

**Policy for Landscaping and Maintenance within Lake Maintenance Easement Area**

Cotleur & Hearing will work with MBSA and Fred Roth to develop an appropriate policy for the planting and maintenance of trees, as well as landscaping, within lake maintenance easement areas that are the responsibility of the Hypoluxo/Haverhill CDD. Cotleur & Hearing will develop policies for review and input by the Hypoluxo/Haverhill CDD Board. Cotleur & Hearing will be available to meet with the Hypoluxo/Haverhill CDD Board to discuss the opportunities and constraints related to various provisions of the proposed draft policies. Upon receipt of input, Cotleur & Hearing will work with the Hypoluxo/Haverhill CDD Board, and Mr. Fred Roth at Michael B. Schorah & Associates to develop a final policy. The policy document will likely include diagrams and/or photographs to help effectively communicate the intent of the policy.

*The undersigned agrees to the attached General Conditions and Special Provisions which are incorporated and made a part of this Agreement. Any additional requested services will be addressed in a separate agreement.*

Cotleur & Hearing  
(Consultant)

\_\_\_\_\_  
(Client)

\_\_\_\_\_  
Date: \_\_\_\_\_  
Signature:

\_\_\_\_\_  
Date: \_\_\_\_\_  
Signature:

Donaldson E. Hearing, ASLA, LEED® AP  
Principal

\_\_\_\_\_  
Printed Name/Title

Attachments:  
General Conditions/Special Provisions  
Client Billing Instructions  
Rate Schedule/W-9

Proposal No: P23-365



Initial: CH \_\_\_\_\_ Client: \_\_\_\_\_

**From:** [froth@schorah.com](mailto:froth@schorah.com) <[froth@schorah.com](mailto:froth@schorah.com)>  
**Sent:** Tuesday, September 26, 2023 3:08 PM  
**To:** Michael McElligott <[MMcElligott@sdsinc.org](mailto:MMcElligott@sdsinc.org)>  
**Cc:** 'Sharon Myers' <[smyers@schorah.com](mailto:smyers@schorah.com)>; 'Jennifer Reeder' <[jreeder@schorah.com](mailto:jreeder@schorah.com)>  
**Subject:** RE: Hypoluxo Haverhill CDD Tree Trimming policy

Michael – Don Hearing has estimated that the cost to do the work included in the proposal sent previously would be \$3500.00. Fred

**From:** [froth@schorah.com](mailto:froth@schorah.com) <[froth@schorah.com](mailto:froth@schorah.com)>  
**Sent:** Tuesday, September 26, 2023 1:20 PM  
**To:** 'Michael McElligott' <[MMcElligott@sdsinc.org](mailto:MMcElligott@sdsinc.org)>  
**Cc:** 'Sharon Myers' <[smyers@schorah.com](mailto:smyers@schorah.com)>; 'Jennifer Reeder' <[jreeder@schorah.com](mailto:jreeder@schorah.com)>  
**Subject:** RE: Hypoluxo Haverhill CDD Tree Trimming policy

Michael – I have attached a proposal for this work from Coutlier & Hearing. It does not have a cost. I will again call them to see if I can get an estimate. Fred

**RESOLUTION NO. 2023-05**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING AND ADOPTING AN AMENDED FINAL FISCAL YEAR 2022/2023 BUDGET (“AMENDED BUDGET”), PURSUANT TO CHAPTER 189, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of Supervisors of the Hypoluxo/Haverhill Community Development District (“District”) is empowered to provide a funding source and to impose special assessments upon the properties within the District; and,

**WHEREAS**, the District has prepared for consideration and approval an Amended Budget.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT, THAT:**

**Section 1.** The Amended Budget for Fiscal Year 2022/2023 attached hereto as Exhibit “A” is hereby approved and adopted.

**Section 2.** The Secretary/Assistant Secretary of the District is authorized to execute any and all necessary transmittals, certifications or other acknowledgements or writings, as necessary, to comply with the intent of this Resolution.

**PASSED, ADOPTED and EFFECTIVE** this 10<sup>th</sup> day of October, 2023.

**ATTEST:**

**HYPOLUXO/HAVERHILL  
COMMUNITY DEVELOPMENT DISTRICT**

By: \_\_\_\_\_  
Secretary/Assistant Secretary

By: \_\_\_\_\_  
Chairperson/Vice Chairperson

# Hypoluxo/Haverhill Community Development District

**Amended Final Budget For  
Fiscal Year 2022/2023  
October 1, 2022 - September 30, 2023**

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**AMENDED FINAL BUDGET**  
**HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT**  
**OPERATING FUND**  
**FISCAL YEAR 2022/2023**  
**OCTOBER 1, 2022 - SEPTEMBER 30, 2023**

	<b>FISCAL YEAR 2022/2023 BUDGET 10/1/22 - 9/30/23</b>	<b>AMENDED FINAL BUDGET 10/1/22 - 9/30/23</b>	<b>YEAR TO DATE ACTUAL 10/1/22 - 9/29/23</b>
<b>REVENUES</b>			
O & M Assessments	82,627	82,762	82,762
Debt Assessments	99,827	99,862	99,862
Other Revenues	0	0	0
Interest Income	120	1,620	1,570
<b>TOTAL REVENUES</b>	<b>\$ 182,574</b>	<b>\$ 184,244</b>	<b>\$ 184,194</b>
<b>EXPENDITURES</b>			
Supervisor Fees	5,000	2,400	2,400
Payroll Taxes - Employer	400	184	184
Engineering/Inspections	2,500	3,300	2,375
Management	26,940	26,940	26,940
Secretarial	4,200	4,200	4,200
Legal	7,000	8,500	7,188
Assessment Roll	5,000	5,000	5,000
Audit Fees	3,600	3,600	3,600
Insurance	6,000	6,134	6,134
Legal Advertisements	1,000	800	406
Miscellaneous	700	500	208
Postage	225	90	84
Office Supplies	350	300	265
Dues & Subscriptions	175	175	175
Trustee Fee	3,400	3,180	3,180
Lake Maintenance	10,000	9,000	6,321
Website Management	2,000	2,000	2,000
<b>TOTAL EXPENDITURES</b>	<b>\$ 78,490</b>	<b>\$ 76,303</b>	<b>\$ 70,660</b>
<b>REVENUES LESS EXPENDITURES</b>	<b>\$ 104,084</b>	<b>\$ 107,941</b>	<b>\$ 113,534</b>
Bond Payments	(93,837)	(95,097)	(95,097)
<b>BALANCE</b>	<b>\$ 10,247</b>	<b>\$ 12,844</b>	<b>\$ 18,437</b>
County Appraiser & Tax Collector Fee	(3,649)	(2,319)	(2,319)
Discounts For Early Payments	(7,298)	(6,963)	(6,963)
<b>EXCESS/ (SHORTFALL)</b>	<b>\$ (700)</b>	<b>\$ 3,562</b>	<b>\$ 9,155</b>
Carryover From Prior Year	700	0	0
<b>NET EXCESS/ (SHORTFALL)</b>	<b>\$ -</b>	<b>\$ 3,562</b>	<b>\$ 9,155</b>

FUND BALANCE AS OF 9/30/22
FY 2022/2023 ACTIVITY
FUND BALANCE AS OF 9/30/23

\$32,818
\$3,562
\$36,380

**Notes**

Carryover From Prior Year Of \$700 was used to reduce Fiscal Year 2022/2023 Assessments.  
\$3,000 Of Fund Balance To Be Used To Reduce 2023/2024 Assessments.

**AMENDED FINAL BUDGET**  
**HYPOLUXO/HAVERHILL COMMUNITY DEVELOPMENT DISTRICT**  
**DEBT SERVICE FUND**  
**FISCAL YEAR 2022/2023**  
**OCTOBER 1, 2022 - SEPTEMBER 30, 2023**

	<b>FISCAL YEAR 2022/2023 BUDGET 10/1/22 - 9/30/23</b>	<b>AMENDED FINAL BUDGET 10/1/22 - 9/30/23</b>	<b>YEAR TO DATE ACTUAL 10/1/22 - 9/29/23</b>
<b>REVENUES</b>			
Interest Income	25	2,185	2,135
NAV Tax Collection	93,837	95,097	95,097
<b>Total Revenues</b>	<b>\$ 93,862</b>	<b>\$ 97,282</b>	<b>\$ 97,232</b>
<b>EXPENDITURES</b>			
Principal Payments	70,000	70,000	70,000
Interest Payments	19,152	20,034	20,034
Bond Redemption	4,710	0	0
<b>Total Expenditures</b>	<b>\$ 93,862</b>	<b>\$ 90,034</b>	<b>\$ 90,034</b>
<b>Excess/ (Shortfall)</b>	<b>\$ -</b>	<b>\$ 7,248</b>	<b>\$ 7,198</b>

FUND BALANCE AS OF 9/30/22
FY 2022/2023 ACTIVITY
FUND BALANCE AS OF 9/30/23

\$65,104
\$7,248
\$72,352

Notes

Reserve Fund Balance = \$10,000\*. Revenue Fund Balance = \$62,352\*.

Revenue Fund Balance To Be Used To Make 11/1/2023 Interest Payment Of \$9,135.

\* Approximate Amounts

**Series 2017 Bond Refunding Information**

Original Par Amount =	\$1,195,000	Annual Principal Payments Due =
Interest Rate =	2.52% - 6.75%	May 1st
Issue Date =	January 2017	Annual Interest Payments Due =
Maturity Date =	May 2033	May 1st & November 1st
Par Amount As Of 9/30/23 =	\$725,000	



August 30, 2023

To Whom It May Concern:

This letter is to inform you that beginning January 1<sup>st</sup>, 2024, the cost(s) for all services provided by Superior Waterway Services, Inc. will be increased by 3% of the current price. This adjustment is necessary due to the increases from manufacturers for herbicides and other related expenses pertaining to the services we provide. Costs have risen dramatically so we find it now necessary. Please sign, date, and return this form as acknowledgement of this increase. If you have any questions or concerns, please call our office at (561) 844-0248. Thank you very much for your understanding and loyalty as a valued customer.

Sincerely,

Christopher J. York  
President

Property/Community: \_\_\_\_\_

Signature: \_\_\_\_\_

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

## MEMORANDUM

TO: District Manager

FROM: Billing, Cochran, Lyles, Mauro & Ramsey, P.A.  
District Counsel

DATE: July 20, 2023

RE: 2023 Legislative Update

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As District Counsel, throughout the year we continuously monitor pending legislation that may be applicable to the governance and operation of our Community Development District and other Special District clients. It is at this time of year that we summarize those legislative acts that have become law during the most recent legislative session, as follows:

**1. Chapter 2023 – 134, Laws of Florida (SB 346).** The legislation requires contracts for construction services between a local government entity and a contractor to include a “punch list”<sup>1</sup> of items required to render complete, satisfactory, and acceptable the construction services contracted for, which punch list outlines the estimated cost of each item necessary to complete the work. The law requires local governments to pay all portions of the contract balance, except for 150 percent of the portion of the contract balance attributed to those projects on the punch list, within 20 days after the punch list is created, subject to certain exceptions. The legislation limits a local government’s ability to withhold payment of certain amounts under the contract to only those subject to a written good faith dispute or claims against public surety bonds. The law clarifies that a local government must pay the undisputed portions of a contract within 20 days of the request for payment. Lastly, the legislation amends the definition of “public works project” in section 255.0992, F.S., to include any construction, maintenance, repair, renovation, remodeling, or improvement activity that is paid for with state-appropriated funds. The effective date of this act is July 1, 2023.

**2. Chapter 2023 – 17, Laws of Florida (SB 102).** The legislation makes various changes and additions to affordable housing related programs and policies at both the state and local level. With regard to local governments, the law:

- Preempts local government requirements regarding zoning, density, and height to allow for streamlined development of affordable housing in commercial and mixed-use zoned areas under certain circumstances. Developments that meet the requirements may not require a zoning change or comprehensive plan amendment.

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<sup>1</sup> The punch list is created within a contractually-specified timeframe after the contractor reaches substantial completion of the construction services as defined in the contract, or if that is not defined, then after the project reaches beneficial occupancy or use. If the contract is valued at less than \$10 million, then the punch list must be developed within 30 calendar days; if the contract is valued at \$10 million or more, then the punch list must be developed within 45 calendar days.

- Removes a local government’s ability to approve affordable housing on residential parcels by bypassing state and local laws that may otherwise preclude such development, while retaining such right for commercial and industrial parcels.
- Removes a provision that allows local governments to impose rent control under certain circumstances, preempting rent control ordinances entirely.
- Requires counties and cities to update and electronically publish the inventory of publicly owned properties, for counties including property owned by a dependent special district, which may be appropriate for affordable housing development.
- Authorizes the Florida Housing Finance Corporation, through contract with the Florida Housing Coalition, to provide technical assistance to local governments to facilitate the use or lease of county or municipal property for affordable housing purposes.
- Requires local governments to maintain a public written policy outlining procedures for expediting building permits and development orders for affordable housing projects.
- Provides that the Keys Workforce Housing Initiative is an exception to evacuation time requirements and that comprehensive plan and land use amendments approved under that initiative are valid.

The effective date of this act is July 1, 2023.

**3. Chapter 2023 – 31, Laws of Florida (SB 1604).** The law makes a number of changes relating to comprehensive plans and land development regulations. Of interest to special districts, section 4 of the legislation amends section 189.031, F.S., to preclude independent special districts from complying with the terms of any development agreement, which is executed within three months preceding the effective date of a law, which modifies the manner of selecting members of the governing body of the special district from election to appointment or appointment to election. The newly elected or appointed governing body of the special district must review within four months of taking office any such development agreement and vote on whether to seek readoption of the agreement. The law applies to any development agreement that is in effect on, or is executed after July 1, 2023, which is the effective date of this law. Section 4 of the Act expires July 1, 2028, unless reviewed and reenacted by the Legislature.

**4. Chapter 2023 – 28, Laws of Florida (HB 3).** This legislation codifies and extends the policy adopted by the Trustees<sup>2</sup> requiring all investment decisions relating to the state retirement system be based solely on pecuniary factors<sup>3</sup>. The law extended that policy to all funds managed by the State Board of Administration (SBA), all funds of the state Treasury, all local government retirement plans, investments of local government surplus funds, and investments of funds raised by citizen support and direct-support organizations. Investment managers who invest public funds on behalf of any of these entities may not sacrifice investment return or take additional investment risk to promote any non-pecuniary factor. The law requires any contract between a governmental

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<sup>2</sup> The Governor, Chief Financial Officer, and Attorney General serve as the SBA’s Board of Trustees.

<sup>3</sup> The term “pecuniary factor” is defined as a factor that is expected “to have a material effect on the risk or return of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests.”

entity<sup>4</sup> and an investment manager executed, amended, or renewed on or after July 1, 2023, to contain a provision requiring the investment manager to include a disclaimer in an external communication, if the communication is to a company in which the investment manager has invested public funds and discusses social, political, or ideological interests. The required disclaimer must state: “The views and opinions expressed in this communication are those of the sender and do not reflect the views and opinions of the people of the state of Florida.” All contracts with investment managers executed, amended, or renewed on or after July 1, 2023, may be unilaterally terminated if certain communications of an investment manager include discussion of social, political, or ideological interests and omit the required disclaimer.

In addition, the legislation prohibits bond issuers<sup>5</sup> from issuing an environmental, social, and corporate governance (ESG) bond or paying for a third-party verifier that certifies or verifies that a bond may be designated or labeled as an ESG bond<sup>6</sup>, renders opinions or produces a report on ESG compliance, among other ESG-related services. Issuers are also prohibited from contracting with a rating agency whose ESG scores for the issuer will have a direct, negative impact on the issuer’s bond ratings.

The act further prohibits consideration of social, political, or ideological beliefs in state and local government contracting, and explicitly notes that this includes all political subdivisions of the state. Specifically, the law prohibits an awarding body from (1) requesting documentation or considering a vendor’s social, political, or ideological beliefs when determining if the vendor is a responsible vendor; or (2) giving a preference to a vendor based on the vendor’s social, political, or ideological beliefs.

Lastly, the legislation amends the definition of a “qualified public depository” to prohibit government entities from depositing funds in banks that make it a practice to deny or cancel services of their customers based on a person’s political opinions, speech, affiliations, lawful ownership or sales of firearms, production of fossil fuels or other factors related to ESG. Pursuant to current law, all public deposits may only be deposited in a qualified public depository. The effective date of this legislation is July 1, 2023.

**5. Chapter 2023 – 32, Laws of Florida (SB 258).** The legislation bans the use of prohibited applications<sup>7</sup> on devices issued to an employee or officer by a public employer, or otherwise used on a network that is owned, operated, or maintained by a public employer. This law requires the Department of Management Services (DMS) to create and maintain a list of prohibited applications of any Internet application that it deems to present a security risk in the form of

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<sup>4</sup> The law defines “governmental entity” to mean a state, regional, county, municipal, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, a department, division, board, bureau, commission, authority, district, or agency thereof, or a public school, Florida College System institution, state university, or associated board.

<sup>5</sup> Any public body corporate and politic authorized or created by general or special law and granted the power to issue bonds.

<sup>6</sup> An ESG bond is any bond that has been designated or labeled as a bond that will be used to finance a project with an ESG purpose, including, but not limited to, green bonds, Certified Climate Bonds, GreenStar designated bonds, and other environmental bonds marketed as promoting a generalized or global environmental objective; social bonds marketed as promoting a social objective; and sustainability bonds and sustainable development goal bonds marketed as promoting both environmental and social objectives. It includes bonds self-designated by the issuer as ESG-labeled bonds and those designated as ESG-labeled bonds by a third-party verifier.

<sup>7</sup> A “prohibited application” is defined as any application that participates in certain activities, such as conducting cyber-espionage against a public employer, and that is created, maintained, or owned by a foreign principal.

unauthorized access to, or temporary unavailability of the public employer's records, digital assets, systems, networks, servers, or information. Public employers must block access to any prohibited application via their wireless networks and virtual private networks; restrict access to any prohibited application on any government cell phone, laptop, desktop computer, tablet computer, or other electronic device that can connect to the Internet that has been issued to an employee or officer for a work-related purpose; and retain the ability to remotely wipe and uninstall any prohibited application from any such device that is believed to have been adversely impacted by a prohibited application. The legislation requires an employee or officer of a CDD to remove any prohibited application from his or her government-issued device within 15 days of the DMS' publication of its list of prohibited applications, and within 15 days of any subsequent update to the list of prohibited applications. The effective date of this legislation is July 1, 2023.

**6. Chapter 2023 – 33, Laws of Florida (SB 264).** The legislation restricts the issuance of government contracts or economic development incentives to foreign entities that are owned by, controlled by or organized under the laws of a foreign country of concern<sup>8</sup>. The law further prohibits a foreign principal<sup>9</sup> from owning or acquiring agricultural land or other interests in real property on or within 10 miles of a military installation or critical infrastructure facility. A foreign principal that owns agricultural land acquired before July 1, 2023, may continue to hold such land and must register with the Florida Department of Agriculture and Consumer Services (DACS) by January 1, 2024. If the property owned or acquired before July 1, 2023, is on or within 10 miles of a military installation or critical infrastructure facility, the foreign principal must similarly register with the Department of Economic Opportunity by December 31, 2023. The law prohibits the People's Republic of China, the Chinese Communist Party, its officials and members, other political party official or members, other legal entities or subsidiaries organized under the laws of, or having a principal place of business in, China or its political subdivisions, or other persons domiciled in China, who are not U.S. citizens or lawful permanent residents of the United States, from purchasing or acquiring an interest in, real property in Florida. Finally, the act amends s. 836.05, F.S., relating to criminal threats and extortion, to provide that a person who violates the statute while acting as a foreign agent for the purpose of benefitting a foreign country of concern, commits a first degree felony. The effective date of this legislation is July 1, 2023.

**7. Chapter 2023 – 264, Laws of Florida (SB 7008).** The legislation amends Section 119.071(3)(c)1., F.S., to save from repeal, the public records exemption for information relating to the following information held by an agency:

- Building plans;
- Blueprints;
- Schematic drawings; and

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<sup>8</sup> The People's Republic of China, The Russian Federation, The Islamic Republic of Iran, The Democratic People's Republic of Korea, The Republic of Cuba, The Venezuelan Regime of Nicolas Maduro, or The Syrian Arab Republic, including any agency of or other entity within significant control of such foreign country of concern.

<sup>9</sup> "Foreign principal" means: The government or any official of the government of a foreign country of concern; A political party or member of a political party or any subdivision of a political party in a foreign country of concern; A partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country of concern, or a subsidiary of such entity; or o Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States.

- Diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development.

The effective date of this act is October 1, 2023.

**8. Chapter 2023 – 75, Laws of Florida (HB 7007).** The legislation removes the scheduled repeal date of the public record and public meeting exemptions for security or fire safety system plans under Sections 119.071(3)(a) and 286.0113(1), F.S., thereby maintaining the public record and public meeting exemptions for such plans. The effective date of this act is October 1, 2023.

For convenience, we have included copies of the legislation referenced in this memorandum. We request that you include this memorandum as part of the agenda packages for upcoming meetings of the governing boards of those special districts in which you serve as the District Manager and this firm serves as District Counsel. For purposes of the agenda package, it is not necessary to include the attached legislation, as we can provide copies to anyone requesting the same. Copies of the referenced legislation are also accessible by visiting this link: <http://laws.flrules.org/>.