



**KENDALL BREEZE WEST
COMMUNITY DEVELOPMENT
DISTRICT**

**MIAMI-DADE COUNTY
REGULAR BOARD MEETING
OCTOBER 18, 2023
7:00 P.M.**

Special District Services, Inc.
8785 SW 165th Avenue, Suite 200
Miami, FL 33193

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AGENDA
KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT
Community Clubhouse – Meeting Room
11780 SW 138th Avenue
Miami, Florida 33186
REGULAR BOARD MEETING
October 18, 2023
7:00 p.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
 - 1. May 17, 2023 Regular Board Meeting & Public Hearing.....Page 2
- G. Old Business
 - 1. Update Regarding Sidewalk Pressure Cleaning
- H. New Business
 - 1. Consider Resolution No. 2023-06 – Adopting a Fiscal Year 2022/2023 Amended Budget.....Page 7
 - 2. Consider Resolution No. 2023-07 – Adopting a Records Retention Policy.....Page 12
 - 3. Discussion Regarding Required Ethics Training Memorandum.....Page 16
 - 4. Discussion Regarding 2023 Legislative Update Memorandum.....Page 21
- I. Administrative & Operational Matters
- J. Board Member & Staff Closing Comments
- K. Adjourn

**KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT
FISCAL YEAR 2023/2024 REGULAR MEETING SCHEDULE**

NOTICE IS HEREBY GIVEN that the Board of Supervisors (the “Board”) of the **Kendall Breeze West Community Development District** (the “District”) will hold Regular Meetings in the Kendall Breeze West Community Clubhouse Meeting Room located at 11780 SW 138th Avenue, Miami, Florida 33186 at **7:00 p.m.** on the following dates:

**October 18, 2023
November 15, 2023
February 21, 2024
March 20, 2024
April 17, 2024
May 15, 2024
June 19, 2024
September 18, 2024**

The purpose of the meetings is for the Board to consider any District business which may lawfully and properly come before the Board. Meetings are open to the public and will be conducted in accordance with the provisions of Florida law for community development districts. Copies of the Agenda for any of the meetings may be obtained from the District’s website or by contacting the District Manager at nnguyen@sdsinc.org and/or toll free at 1-877-737-4922, prior to the date of the particular meeting.

From time to time one or two Board members may participate by telephone; therefore, a speaker telephone will be present at the meeting location so that Board members may be fully informed of the discussions taking place. Said meeting(s) 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 meetings should contact the District Manager at nnguyen@sdsinc.org 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 with no advertised notice.

KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT

www.kendallbreezewestcdd.org

PUBLISH: MIAMI DAILY BUSINESS REVIEW 10/06/23

**KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD MEETING & PUBLIC HEARING
MAY 17, 2023**

A. CALL TO ORDER

District Manager Nancy Nguyen called the May 17, 2023, Regular Board Meeting of the Kendall Breeze West Community Development District (the “District”) to order at approximately 7:01 p.m. in the Meeting Room at the Kendall Breeze West Community Clubhouse located at 11780 SW 138th Avenue, Miami, Florida 33186.

B. PROOF OF PUBLICATION

Ms. Nguyen presented proof of publication that notice of the May 17, 2023, Regular Board Meeting had been published in the *Miami Daily Business Review* on October 10, 2022, as part of the District’s fiscal year 2022/2023 meeting schedule, as legally required.

C. ESTABLISH A QUORUM

It was determined that the attendance of Chairwoman Liana Cervino, Vice Chairwoman Jessica Figueroa, and Supervisors Eduardo Sanchez, Marianna Antunez and Dena Sherman constituted a quorum and it was in order to proceed with the meeting.

Attending Staff were as follows: District Manager Nancy Nguyen and Field Operations Manager Ryan Quiroga of Special District Services, Inc.; and General Counsel Michael Pawelczyk of Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

D. ADDITIONS OR DELETIONS TO THE AGENDA

Ms. Nguyen informed the Board of Supervisors (the “Board”) that she would like to add the following item to the agenda:

- Administrative and Operational Matters Item 2. – Consider Resolution No. 2023-05 – Authorizing Electronic Approvals and Check Signers

The Board acknowledged Ms. Nguyen’s request.

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. March 15, 2023, Regular Board Meeting

Ms. Nguyen presented the minutes of the March 15, 2023, Regular Board Meeting and asked if there were any changes and/or corrections. There being no comments or changes, a **motion** was made by Mr. Sanchez, seconded by Ms. Antunez and passed unanimously approving the minutes of the March 15, 2023, Regular Board Meeting, as presented.

NOTE: At approximately 7:02 p.m., Ms. Nguyen recessed the Regular Meeting and simultaneously opened the Public Hearing.

G. PUBLIC HEARING

1. Proof of Publication

Ms. Nguyen presented proof of publication that notice of the Public Hearing had been published in the *Miami Daily Business Review* on April 27, 2023, and May 4, 2023, as legally required.

2. Receive Public Comments on Fiscal Year 2023/2024 Final Budget

Ms. Nguyen opened the public comment portion of the Public Hearing to receive comments on the 2023/2024 fiscal year final budget and non-ad valorem special assessments. There being no comments, Ms. Nguyen closed the public comment portion of the Public Hearing.

3. Consider Resolution No. 2023-03 – Adopting a Fiscal Year 2023/2024 Final Budget

Ms. Nguyen presented Resolution No. 2023-03, entitled:

RESOLUTION NO. 2023-03

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT APPROVING AND ADOPTING A FISCAL YEAR 2023/2024 FINAL BUDGET INCLUDING NON-AD VALOREM SPECIAL ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE.

Ms. Nguyen read the title into the record and stated that the document provides for approving and adopting the fiscal year 2023/2024 final budget and the non-ad valorem special assessment tax roll. A discussion ensued after which:

A **motion** was made by Ms. Figueroa, seconded by Mr. Sanchez and unanimously passed to approve and adopt Resolution No. 2023-03, *as presented*; thereby setting the 2023/2024 final budget and non-ad valorem special assessment tax roll.

NOTE: At approximately 7:04 p.m., Ms. Nguyen closed the Public Hearing and simultaneously reconvened the Regular Meeting.

H. OLD BUSINESS

1. Update Regarding Asphalt Repairs & Installation of Reflective Pavement Markings

Ms. Nguyen stated that the next three (3) agenda items will be discussed simultaneously. Ms. Nguyen informed the Board that LEGA Striping and More, Inc. has been diligently working on the asphalt repairs, reflective pavement markings installation and sidewalk slab replacements in the community. She further explained that the HOA also contracted LEGA Striping and More, Inc. for their repairs, therefore, the whole community will be addressed at the same time.

Ms. Nguyen explained that following the March 15, 2023 Regular Board Meeting, District Staff conducted an on-site inspection with the District Engineer to discuss the additional speed humps requested on SW 115th Lane and SW 116th Terrace. During the site visit, the District Engineer analyzed the flow of traffic, stormwater system structures, and took measurements of the roads. The District Engineer determined that it would be possible to install speed humps on both of the streets; however, they cannot be placed across the street and an additional speed hump will be needed on SW 137th Path to provide the District's requested results, which is to keep pedestrians safe and reduce speeding, while not affecting traffic laws or the flow of the stormwater. Ms. Nguyen presented the prepared engineering plans specifying the placement and measurements of the speed humps, as well as the placement of the signs. Ms. Nguyen explained that she requested a proposal from LEGA Striping and More, Inc. for the installation of the speed humps. The proposal received is for a total of \$3,875, which is lower than the cost of the speed humps installed in 2021. Ms. Nguyen stated that she accepted a change order from LEGA Striping and More, Inc. for the installation of the speed humps and it would be in order for the Board to ratify the District Manager's actions.

A **motion** was made by Ms. Figueroa, seconded by Ms. Antunez and unanimously passed ratifying the District Manager's actions and accepting the Change Order from LEGA Striping and More, Inc. in the amount of \$3,875, for the installation of speed humps and signs.

2. Update Regarding Sidewalk Slab Replacement (SW 137th Path & SW 116th Terrace)

This item was discussed during Old Business Item 1.

3. Update Regarding Additional Speed Humps (SW 115th Lane & SW 116th Terrace)

This item was discussed during Old Business Item 1.

4. Update Regarding Stormwater System Cleaning

Ms. Nguyen informed the Board that the stormwater system cleaning project has been completed.

I. NEW BUSINESS

1. Consider Resolution No. 2023-04 – Adopting a Fiscal Year 2023/2024 Meeting Schedule

Ms. Nguyen presented Resolution No. 2023-04, entitled:

RESOLUTION NO. 2023-04

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KENDALL BREEZE WEST 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.

Ms. Nguyen provided an explanation for the document. A discussion ensued after which:

A **motion** was made by Ms. Figueroa, seconded by Ms. Cervino and unanimously passed to approve and adopt Resolution No. 2023-04, *as presented*; thereby setting the 2023/2024 regular meeting schedule and authorizing the publication of the annual meeting schedule, as required by law.

J. ADMINISTRATIVE & OPERATIONAL MATTERS

1. Statement of Financial Interest 2022 Form 1 – Filing Deadline: July 1, 2023

Board members were reminded of the importance of completing and mailing to the Supervisor of Elections within the County of residency their individual 2022 Statement of Financial Interests Form 1. The deadline for submittal is July 1, 2023.

2. ADD-ON: Consider Resolution No. 2023-05 – Authorizing Electronic Approvals & Check Signers

Resolution No. 2023-05 was presented, entitled:

RESOLUTION NO. 2023-05

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT, AUTHORIZING THE ESTABLISHMENT OF A DISTRICT CHECKING/OPERATING ACCOUNT, DESIGNATING DISTRICT OFFICIALS AND/OR AUTHORIZED STAFF TO REVIEW, APPROVE AND ISSUE PAYMENT OF EXPENDITURES, SELECTING THE SIGNATORIES THEREOF; AND PROVIDING AN EFFECTIVE DATE.

Ms. Nguyen advised that due to the Board of Supervisors changes that occurred during the March 15th meeting, it would be in order to designate a new District Official as an authorized electronic approver and re-elect authorized District Staff as electronic approvers and check signers. The following slate of names were suggested:

- Todd Wodraska
- Jason Pierman
- Patricia LasCasas
- Nancy Nguyen
- Liana Cervino

A **motion** was made by Ms. Figueroa, seconded by Ms. Cervino and unanimously passed to approve and adopt Resolution No. 2023-05, designating the authorized electronic approvers and check signers, as listed above.

K. BOARD MEMBER & STAFF CLOSING COMMENTS

Ms. Nguyen stated that unless an emergency were to arise, the Board would not need to meet until October 18, 2023.

L. ADJOURNMENT

There being no further business to come before the Board, a **motion** was made by Ms. Figueroa, seconded by Ms. Cervino and passed unanimously adjourning the Regular Board Meeting at approximately 7:18 p.m.

Secretary/Assistant Secretary

Chairperson/Vice Chairperson

RESOLUTION NO. 2023-06

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KENDALL BREEZE WEST 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 Kendall Breeze West Community Development District (the “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 KENDALL BREEZE WEST 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 BECOMES EFFECTIVE this 18th day of October, 2023.

ATTEST:

**KENDALL BREEZE WEST
COMMUNITY DEVELOPMENT DISTRICT**

By: _____
Secretary/Assistant Secretary

By: _____
Chair/Vice Chair

Kendall Breeze West Community Development District

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

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AMENDED FINAL BUDGET
KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT
OPERATING FUND
FISCAL YEAR 2022/2023
OCTOBER 1, 2022 - SEPTEMBER 30, 2023

	FISCAL YEAR 2022/2023 BUDGET 10/1/22 - 9/30/23	AMENDED FINAL BUDGET 10/1/22 - 9/30/23	YEAR TO DATE ACTUAL 10/1/22 - 9/29/23
REVENUES			
Administrative Assessments	84,395	84,740	84,740
Maintenance Assessments	73,496	73,497	73,497
Debt Assessments	115,471	115,472	115,472
Interest Income	180	6,302	6,202
TOTAL REVENUES	\$ 273,542	\$ 280,011	\$ 279,911
EXPENDITURES			
ADMINISTRATIVE EXPENDITURES			
Supervisor Fees	6,000	2,800	2,800
Payroll Taxes - Employer	459	214	214
Management	31,452	31,452	31,452
Secretarial & Field Operations	6,000	6,000	6,000
Legal	8,000	9,500	8,515
Assessment Roll	7,500	7,500	7,500
Audit Fees	3,700	3,700	3,700
Insurance	6,200	6,134	6,134
Legal Advertisements	700	600	292
Miscellaneous	1,100	900	675
Postage	275	160	150
Office Supplies	400	300	259
Dues & Subscriptions	175	175	175
Trustee Fees	4,100	4,089	4,089
Continuing Disclosure Fee	350	350	350
Website Management	2,000	2,000	2,000
Administrative Contingency	1,100	1,100	0
TOTAL ADMINISTRATIVE EXPENDITURES	\$ 79,511	\$ 76,974	\$ 74,305
MAINTENANCE EXPENDITURES			
Engineering - Annual Report & Inspections	1,200	5,200	4,188
Street/Roadway & Stormwater Maintenance	18,400	20,000	18,854
Preservation Area Maintenance	6,500	2,868	2,868
Pressure Cleaning	10,500	10,001	10,001
Roadway Resurfacing Project	14,286	14,286	0
Special Projects	12,000	13,000	11,975
Miscellaneous Maintenance	5,000	2,500	0
Maintenance Contingency	1,200	1,200	0
TOTAL MAINTENANCE EXPENDITURES	\$ 69,086	\$ 69,055	\$ 47,886
TOTAL EXPENDITURES	\$ 148,597	\$ 146,029	\$ 122,191
REVENUES LESS EXPENDITURES	\$ 124,945	\$ 133,982	\$ 157,720
Bond Payments	(108,543)	(110,002)	(110,002)
BALANCE	\$ 16,402	\$ 23,980	\$ 47,718
County Appraiser & Tax Collector Fee	(5,467)	(2,632)	(2,632)
Discounts For Early Payments	(10,935)	(10,322)	(10,322)
EXCESS/ (SHORTFALL)	\$ -	\$ 11,026	\$ 34,764
Carryover From Prior Year	0	0	0
NET EXCESS/ (SHORTFALL)	\$ -	\$ 11,026	\$ 34,764

Notes

Fund Balance Includes Roadway Resurfacing Project Reserve (\$14,286).
Funds To Be Added To Roadway Resurfacing Project Reserve In October 2023.

FUND BALANCE AS OF 9/30/22	\$122,207
FY 2022/2023 ACTIVITY	\$11,026
FUND BALANCE AS OF 9/30/23	\$133,233

AMENDED FINAL BUDGET
KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT
DEBT SERVICE FUND
FISCAL YEAR 2022/2023
OCTOBER 1, 2022 - SEPTEMBER 30, 2023

	FISCAL YEAR 2022/2023 BUDGET	AMENDED FINAL BUDGET	YEAR TO DATE ACTUAL
REVENUES	10/1/22 - 9/30/23	10/1/22 - 9/30/23	10/1/22 - 9/29/23
Interest Income	10	3,084	3,034
NAV Tax Collection	108,543	110,002	110,002
Total Revenues	\$ 108,553	\$ 113,086	\$ 113,036
EXPENDITURES			
Principal Payments	55,000	55,000	55,000
Interest Payments	53,553	53,169	53,169
Extraordinary Principal Payments	0	0	0
Total Expenditures	\$ 108,553	\$ 108,169	\$ 108,169
Excess/ (Shortfall)	\$ -	\$ 4,917	\$ 4,867

FUND BALANCE AS OF 9/30/22	\$72,421
FY 2022/2023 ACTIVITY	\$4,917
FUND BALANCE AS OF 9/30/23	\$77,338

Notes

Reserve Fund Balance = \$36,200*. Revenue Fund Balance = \$31,138*.

Redemption Fund Balance = \$10,000*.

Revenue Fund Balance To Be Used To Make 11/1/2023 Interest Payment Of \$24,969.

Redemption Fund Balance To Be Used To Make 11/1/2023 Extraordinary Principal Payment Of \$10,000.

* Approximate Amounts

Series 2004 Bond Information

Original Par Amount =	\$1,580,000	Annual Principal Payments Due:
Interest Rate =	5.875%	May 1st
Issue Date =	December 2004	Annual Interest Payments Due:
Maturity Date =	May 2034	May 1st & November 1st

Par Amount As Of 9/30/23: \$850,000

RESOLUTION 2023-07

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KENDALL BREEZE WEST 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; DETERMINING THE ELECTRONIC RECORD TO BE THE OFFICIAL RECORD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Kendall Breeze West Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*; 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 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 “Records Retention Policy”) for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE KENDALL BREEZE WEST COMMUNITY DEVELOPMENT DISTRICT, THAT:

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;
- B.** Coordinate the District's records inventory;
- C.** Maintain records retention and disposition forms;
- D.** Coordinate District records management training;
- E.** Develop records management procedures consistent with the Records Retention Policy, as amended as provided herein;
- F.** Participate in the development of the District's development of electronic record keeping systems;
- G.** Submit annual compliance statements;
- 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 will retain certain records longer than required by the General Records Schedules established by the Division as set forth in Exhibit A. 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 shall not reduce the retention times set forth in Exhibit A. The Records Retention Policy shall remain in full force and effect until such time as the Board amends the Policy.

SECTION 4. In accordance with section 668.50, Florida Statutes, and section 119.01, Florida Statutes, the Board finds that the electronic record shall be considered the official record and any paper originals are hereby duplicates which may be disposed of unless required to be preserved by any applicable statute, rule or ordinance.

SECTION 5. 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. This Resolution shall become effective upon its passage; shall replace, supplant, and supersede any prior policy or resolution of the District regarding records retention; and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED at a meeting of the District Board of Supervisors, this 18th day of October, 2023.

ATTEST:

**KENDALL BREEZE WEST
COMMUNITY DEVELOPMENT
DISTRICT**

Print name: _____
Secretary / Assistant Secretary

Print name: _____
Chair / Vice Chair

Exhibit A: Amendments to General Records Schedules Established by the Division

Exhibit A

Amendments to General Records Schedules established by the Division

ADVERTISEMENTS: LEGAL (Item #25)

The District shall retain mailed and published legal advertisements, and corresponding affidavits, relating to proceedings under uniform method of collection of debt assessments permanently. The District shall retain mailed and published legal advertisements, and corresponding affidavits, relating to the levy of assessments securing bonds for five (5) fiscal years provided applicable audits have been released, or until three (3) calendar years after related bonds are redeemed, whichever is later.

AUDITS: INDEPENDENT (Item #56)

The District shall retain the record copy of independent audits for ten (10) fiscal years or until three (3) calendar years after all related bonds are redeemed, whichever is later.

DISBURSEMENT RECORDS: DETAIL (Item #340)

The District shall retain the record copy of disbursement records relating to the use of bonds for five (5) fiscal years provided applicable audits have been released or until three (3) calendar years after related bonds are redeemed, whichever is later.

DISBURSEMENT RECORDS: SUMMARY (Item #341)

The District shall retain the record copy of disbursement records relating to the use of bonds for ten (10) fiscal years provided applicable audits have been released or until three (3) calendar years after related bonds are redeemed, whichever is later.

FINANCIAL REPORTS: LOCAL GOVERNMENT ANNUAL REPORTS (Item #107)

The District shall retain the record copy of disbursement records relating to the use of bonds for ten (10) fiscal years provided applicable audits have been released or until three (3) calendar years after all related bonds are redeemed, whichever is later.

INCIDENT REPORT FILES (Item #241)

The District shall retain incident reports for five (5) anniversary years from the date of the incident.

MINUTES: OFFICIAL MEETINGS (PRELIMINARY/AUDIO RECORDINGS/VIDEO RECORDINGS (Item #4)

The District shall retain audio recordings of board of supervisor meetings for five (5) calendar years after adoption of the official minutes.

PROJECT FILES: CAPITAL IMPROVEMENT (Item #136)

The District shall retain the record copy of project files for projects funded with bonds for ten (10) fiscal years after completion of the project provided applicable audits have been released or until three (3) calendar years after all related bonds are redeemed, whichever is later.

REAL PROPERTY RECORDS: CONDEMNATION/DEMOLITION (Item #364)

The District shall retain the record copy of project files for condemnation/demolition projects funded with bonds for five (5) anniversary years after final action or until three (3) calendar years after all related bonds are redeemed, whichever is later. The record copy of deeds and easements shall be kept permanently.

REAL PROPERTY RECORDS: PROPERTY ACQUIRED (Item #172)

The District shall retain the record copy of documents related to property acquisitions funded with bonds for three (3) fiscal years after final disposition of the property provided applicable audits have been released or until three (3) calendar years after all related bonds are redeemed, whichever is later. The record copy of deeds and easements shall be kept permanently.

MEMORANDUM

TO: District Manager

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

DATE: June 6, 2023

RE: Required Ethics Training

On May 24, 2023, the Governor signed CS/HB 199 into law as Chapter 2023-121, Laws of Florida. Section 112.3142, Florida Statutes, requires that specified constitutional officers, elected municipal officers, and commissioners complete four (4) hours of ethics training annually. This requirement is noted on page 1 of the Form 1, Statement of Financial Interests. This legislation provides that beginning January 1, 2024, elected and appointed commissioners of community redevelopment agencies and local officers of independent special districts are now required to complete four (4) hours of ethics training annually. The training must address, at a minimum, s. 8, Art. II of the Florida Constitution (ethics for public officers and financial disclosure), the Code of Ethics for Public Officers and Employees, and the Florida Public Records Law and Open Meetings laws. The legislation specifically provides that this training requirement may be satisfied by completing a continuing legal education class or other continuing professional education class or seminar if the required subject matter is covered therein.

For current supervisors and officers, it is recommended that this training requirement be completed by July 1, 2024, so that the supervisor or officer can verify compliance with the required training on his or her Form 1, Statement of Financial Interests (2023). Elected local officers of independent special districts that assume office on or before March 31st must complete annual ethics training by December 31st of the year the term begins; however, if the term starts after March 31st, the officer is not required to complete the required ethics training until December 31st of the following year. The Legislature intends for those elected officers to receive the required training as close as possible to the date that he or she assumes office. The chart below can be used as a reference:

Date elected or appointed	Annual Training Completed By
Current Officer/Supervisor	December 31, 2024 (recommend completion by July 1, 2024)
January 1 – March 31, 2024	December 31, 2024
April 1 – December 31, 2024	December 31, 2025

The legislation also amends Section 112.313(a), Florida Statutes, clarifying the conflicts exception for public officers or employees of water control districts (Chapter 298, Florida Statutes)

or a special tax districts created by general (i.e. community development districts) or special law and which is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the district has jurisdiction. Employment with or entering into a contractual relationship with a business entity is not prohibited and is not deemed a conflict per se; however, conduct by such officer or employee that is prohibited by or otherwise frustrates the intent of Section 112.313(7), Florida Statutes, including conduct that violates subsections (6) (misuse of public position) and (8) (disclosure of information not otherwise available to the public for personal benefit) thereof is deemed an impermissible conflict of interest.

For convenience, we have included a copy 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. You can expect our traditional legislative memorandum in the coming weeks, where we will summarize other legislation from the 2023 Legislative Session relevant to special districts.

CHAPTER 2023-121

Committee Substitute for House Bill No. 199

An act relating to ethics requirements for officers and employees of special tax districts; amending s. 112.313, F.S.; specifying that certain conduct by certain public officers and employees is deemed a conflict of interest; making technical changes; amending s. 112.3142, F.S.; requiring certain ethics training for elected local officers of independent special districts beginning on a specified date; specifying requirements for such training; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency ~~is shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section, including conduct that violates subsections (6) and (8), is shall be~~ deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

Section 2. Paragraphs (d) and (e) of subsection (2) of section 112.3142, Florida Statutes, are redesignated as paragraphs (e) and (f), respectively, present paragraph (e) of that subsection is amended, and a new paragraph (d) is added to that subsection, to read:

112.3142 Ethics training for specified constitutional officers, elected municipal officers, and commissioners of community redevelopment agencies, and elected local officers of independent special districts.—

(2)

(d) Beginning January 1, 2024, each elected local officer of an independent special district, as defined in s. 189.012, and each person who is appointed to fill a vacancy for an unexpired term of such elective office must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject matter is covered by such class, seminar, or presentation.

(f)(e) The Legislature intends that a constitutional officer, or elected municipal officer, or elected local officer of an independent special district who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer, or elected municipal officer, or elected local officer of an independent special district assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer, or elected municipal officer, or elected local officer of an independent special district assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

Section 3. This act shall take effect July 1, 2023.

Approved by the Governor May 24, 2023.

Filed in Office Secretary of State May 24, 2023.

MEMORANDUM

TO: District Manager

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

DATE: July 20, 2023

RE: 2023 Legislative Update

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”¹ 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.

¹ 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 Trustees² requiring all investment decisions relating to the state retirement system be based solely on pecuniary factors³. 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

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

³ 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.”

entity⁴ 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 issuers⁵ 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 bond⁶, 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 applications⁷ 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

⁴ 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.

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

⁶ 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.

⁷ 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 concern⁸. The law further prohibits a foreign principal⁹ 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

⁸ 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.

⁹ "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/>.