



**WINDING CYPRESS  
COMMUNITY DEVELOPMENT  
DISTRICT**

**COLLIER COUNTY  
REGULAR BOARD MEETING  
NOVEMBER 2, 2021  
1:00 P.M.**

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

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

561.630.4922 Telephone

877.SDS.4922 Toll Free

561.630.4923 Facsimile

**AGENDA**  
**WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT**  
Clubhouse at Winding Cypress  
7180 Winding Cypress Drive  
Naples, Florida 34114  
**REGULAR BOARD MEETING**  
**November 2, 2021**  
**1:00 p.m.**

- A. Call to Order
- B. Proof of Publication.....Page 1
- C. Establish a Quorum
- D. Additions or Deletions to Agenda
- E. Comments from the Public for Items Not on the Agenda
- F. Approval of Minutes
  - 1. August 3, 2021 Regular Board Meeting & Public Hearing.....Page 2
- G. Old Business
- H. New Business
  - 1. Consider Resolution No. 2021-07 – Adopting Fiscal Year 2020/2021 Amended Budget.....Page 6
  - 2. Consider Approval of Maintenance Agreement Between the District and HOA.....Page 12
  - 3. Consider Approval of District Counsel New Status with Kutak Rock LLP.....Page 23
- I. Administrative Matters
- J. Board Members Comments
- K. Adjourn

# Naples Daily News

PART OF THE USA TODAY NETWORK

WINDING CYPRESS COMM  
 2501 BURNS RD # A  
 PALM BEACH GARDENS FL 33410--520

<u>Account</u>	<u>AD#</u>	<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
1308517	0004960626	\$294.00	\$0.00	\$294.00	Invoice	\$0.00	\$294.00

Sales Rep: mweber

Order Taker: mweber

Order Created 10/15/2021

Product	# Ins	Column	Agate Lines	Start Date	End Date
NDN-Naples Daily News	1	2.00	84	10/22/2021	10/22/2021
NDN-naplesnews.com	1	2.00	84	10/22/2021	10/22/2021

\* ALL TRANSACTIONS CONSIDERED PAID IN FULL UPON CLEARANCE OF FINANCIAL INSTITUTION

Text of Ad: 10/15/2021

**NOTICE OF BOARD MEETING OF THE  
 WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Winding Cypress Community Development District (the "District") will hold a Board Meeting on November 2, 2021, at 1:00 p.m. at the Clubhouse at Winding Cypress located at 7180 Winding Cypress Drive, Naples, Florida 34114.

The Board Meeting is open to the public and will be conducted in accordance with the provisions of Florida law for community development districts. The Board Meeting may be continued in progress without additional notice to a time, date, and location stated on the record. A copy of the agenda for the Board Meeting may be obtained from the District's website or from the District Manager, Special District Services, located at 2501A Burns Road, Palm Beach Gardens, Florida 33410. There may be occasions when one or more Supervisors will participate by telephone.

Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this Board Meeting is asked to advise the District Office at least forty-eight (48) hours before the meeting by contacting the District Manager at (561) 630-4922 and/or toll free at 1-877-737-4922. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770, who can aid you in contacting the District Office.

A person who decides to appeal any decision made at this Board Meeting with respect to any matter considered at the Board Meeting 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.

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

**WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT**  
[www.windingcypresscdd.org](http://www.windingcypresscdd.org)  
 AD#4960626 10/22/2021

**WINDING CYPRESS  
COMMUNITY DEVELOPMENT DISTRICT  
PUBLIC HEARING & REGULAR BOARD MEETING  
AUGUST 3, 2021**

**A. CALL TO ORDER**

The Regular Board Meeting of the Winding Cypress Community Development District (the “District”) was called to order at 1:00 p.m. at the Clubhouse at Winding Cypress located at 7180 Winding Cypress Drive, Naples, Florida 34114.

**B. PROOF OF PUBLICATION**

Proof of publication was presented that Notice of the Regular Board Meeting had been published in the *Naples Daily News* on July 14, 2021, and July 21, 2021, as legally required.

**C. ESTABLISH A QUORUM**

It was determined that the virtual attendance of the following Supervisors constituted a quorum and it was in order to proceed with the meeting:

Chairman	Scott Brooks	Present
Vice Chairman	Mike Hueniken	Absent
Supervisor	Laura Ray	Present
Supervisor	Patrick Butler	Present
Supervisor	Dr. James Verbist	Absent

Also present were the following Staff members:

District Manager	Kathleen Meneely	Special District Services, Inc.
District Counsel	Alyssa Willson (via phone)	Hopping, Green & Sams

**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. May 4, 2021, Public Hearing & Regular Board Meeting**

The minutes of the May 4, 2021, Public Hearing & Regular Board Meeting were presented for consideration.

A **motion** was then made by Ms. Ray, seconded by Mr. Brooks and passed unanimously approving the minutes of the May 4, 2021, Public Hearing & Regular Board Meeting, as presented.

The Regular Board Meeting was then recessed and the Public Hearing was opened.

## **G. PUBLIC HEARING**

### **1. Proof of Publication**

Proof of publication was presented that Notice of the Public Hearing had been published in the *Naples Daily News* on July 14, 2021, and July 21, 2021, as legally required.

### **2. Receive Public Comment on the Fiscal Year 2021/2022 Final Budget**

There was no public comment on the Fiscal year 2021/2022 Final Budget/

### **3. Consider Resolution No. 2021-04 – Adopting a Fiscal Year 2021/2022 Final Budget**

Resolution No. 2021-04 was presented, entitled:

#### **RESOLUTION 2021-04**

**THE ANNUAL APPROPRIATION RESOLUTION OF THE WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT (“DISTRICT”) RELATING TO THE ANNUAL APPROPRIATIONS AND ADOPTING THE BUDGETS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021, AND ENDING SEPTEMBER 30, 2022; AUTHORIZING BUDGET AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Ray stated that on page 3 of the resolution, under (c), it should be “2022” and that there was an extra “0” in the general fund amount in the chart that should be removed.

A **motion** was made by Ms. Ray, seconded by Mr. Butler and passed unanimously adopting Resolution No. 2021-04, as amended.

The Public Hearing was then closed and the Regular Board Meeting was reconvened.

## **H. OLD BUSINESS**

There were no Old Business items to come before the Board.

## **I. NEW BUSINESS**

### **1. Consider Resolution No. 2021-06 – Adopting a Fiscal Year 2021/2022 Meeting Schedule**

Resolution No. 2021-06 was presented, entitled:

#### **RESOLUTION NO. 2021-06**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT, ESTABLISHING A REGULAR MEETING SCHEDULE FOR FISCAL YEAR 2021/2022 AND**

## **SETTING THE TIME AND LOCATION OF SAID DISTRICT MEETINGS; AND PROVIDING AN EFFECTIVE DATE.**

Upon discussion, there was a consensus of the Board to remove the January 4 and July 5 meeting dates.

A **motion** was made by Mr. Brooks, seconded by Ms. Ray and passed unanimously adopting Resolution No. 2021-06, as amended.

### **2. Accept and Receive Lake Bank Inspection Report**

There was discussion that Pulte would be making the repairs outside the rainy season, in the beginning of the year. Mr. Brooks indicated that he had spoken to Ms. Willson about putting together a maintenance agreement for the HOA, as the turnover would be taking place soon. Ms. Willson indicated she would bring the agreement to the next meeting for Board consideration.

A **motion** was made by Ms. Ray, seconded by Mr. Butler and passed unanimously accepting and receiving the Lake Bank Inspection Report, as presented.

### **J. ADMINISTRATIVE MATTERS**

Ms. Meneely went over the upcoming meeting schedule. There was a consensus to cancel the September meeting and to plan on meeting in October or November, with the preference to meet in October, if the amended budget is ready.

Ms. Willson indicated that two of the Board seats would turn over at the next general election in November 2022 and those seats would need to be designated. There was discussion regarding the need for the developers to stay on the Board, if the community has been turned over. Ms. Willson went over the process for developer Board Members to resign early, if they so choose.

### **K. BOARD MEMBER COMMENTS**

Mr. Brooks indicated he was working on conveyances with Ms. Willson and on the HOA maintenance agreement.

Mr. Butler indicated that he owed Ms. Willson a response on the preserve parcel before turnover to the CDD with the funding account to be opened once conveyed.

### **L. ADJOURNMENT**

There being no further business to come before the Board, the Regular Board Meeting was adjourned at 1:27 p.m. on a **motion** made by Mr. Brooks, seconded by Ms. Ray and passed unanimously.

\_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary/Assistant Secretary

Date Approved \_\_\_\_\_

**RESOLUTION NO. 2021-07**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING AND ADOPTING AN AMENDED FINAL FISCAL YEAR 2020/2021 BUDGET (“AMENDED BUDGET”), PURSUANT TO CHAPTER 189, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of Supervisors of the Winding Cypress 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 WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT, THAT:**

**Section 1.** The Amended Budget for Fiscal Year 2020/2021 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 2<sup>nd</sup> day of November, 2021.

**ATTEST:**

**WINDING CYPRESS  
COMMUNITY DEVELOPMENT DISTRICT**

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

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



Winding Cypress  
Community Development District

**Amended Final Budget For  
Fiscal Year 2020/2021  
October 1, 2020 - September 30, 2021**

# CONTENTS

- I      **AMENDED FINAL OPERATING FUND BUDGET**
- II     **AMENDED FINAL DEBT SERVICE FUND BUDGET - SERIES 2015**
- III    **AMENDED FINAL DEBT SERVICE FUND BUDGET - SERIES 2019**

**AMENDED FINAL BUDGET**  
**WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT**  
**OPERATING FUND**  
**FISCAL YEAR 2020/2021**  
**OCTOBER 1, 2020 - SEPTEMBER 30, 2021**

	FISCAL YEAR 2020/2021 BUDGET 10/1/20 - 9/30/21	AMENDED FINAL BUDGET 10/1/20 - 9/30/21	YEAR TO DATE ACTUAL 10/1/20 - 9/29/21
<b>REVENUES</b>			
O & M Assessments	177,811	178,107	178,107
Debt Assessments (2015)	526,216	526,462	526,462
Debt Assessments (2019)	311,687	311,788	311,788
Interest Income	180	210	208
<b>TOTAL REVENUES</b>	<b>\$ 1,015,894</b>	<b>\$ 1,016,567</b>	<b>\$ 1,016,565</b>
<b>EXPENDITURES</b>			
Supervisor Fees	1,200	0	0
Payroll Taxes - Employer	96	0	0
Engineering/Inspections	8,000	9,100	8,566
Preserve Maintenance	79,700	75,100	75,100
Management	36,084	36,084	36,084
Legal	15,500	13,000	9,167
Assessment Roll	5,000	5,000	5,000
Audit Fees	3,900	3,900	3,900
Arbitrage Rebate Fee	650	650	650
Insurance	5,900	5,513	5,513
Legal Advertisements	1,800	3,500	2,723
Miscellaneous	750	750	353
Postage	300	300	288
Office Supplies	600	425	408
Dues & Subscriptions	175	175	175
Trustee Fee	7,800	7,740	7,740
Continuing Disclosure Fee	2,000	1,500	1,500
<b>TOTAL EXPENDITURES</b>	<b>\$ 169,455</b>	<b>\$ 162,737</b>	<b>\$ 157,167</b>
<b>REVENUES LESS EXPENDITURES</b>	<b>\$ 846,439</b>	<b>\$ 853,830</b>	<b>\$ 859,398</b>
Bond Payments (2015)	(486,750)	(496,203)	(496,203)
Bond Payments (2019)	(288,311)	(293,870)	(293,870)
<b>BALANCE</b>	<b>\$ 71,378</b>	<b>\$ 63,757</b>	<b>\$ 69,325</b>
County Appraiser & Tax Collector Fee	(35,042)	(19,548)	(19,548)
Discounts For Early Payments	(41,136)	(38,853)	(38,853)
<b>EXCESS/ (SHORTFALL)</b>	<b>\$ (4,800)</b>	<b>\$ 5,356</b>	<b>\$ 10,924</b>
Carryover From Prior Year	4,800	4,800	0
<b>NET EXCESS/ (SHORTFALL)</b>	<b>\$ -</b>	<b>\$ 10,156</b>	<b>\$ 10,924</b>

FUND BALANCE AS OF 9/30/20	\$92,726
FY 2020/2021 ACTIVITY	\$5,356
FUND BALANCE AS OF 9/30/21	\$98,082

**Notes**

Carryover From Prior Year Of \$4,800 to be used to reduce Fiscal Year 2020/2021 Assessments.  
\$5,100 Of Fund Balance To Be Used To Reduce 2021/2022 Assessments.

**AMENDED FINAL BUDGET**  
**WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT**  
**DEBT SERVICE FUND - SERIES 2015**  
**FISCAL YEAR 2020/2021**  
**OCTOBER 1, 2020 - SEPTEMBER 30, 2021**

	<b>FISCAL YEAR 2020/2021 BUDGET 10/1/20 - 9/30/21</b>	<b>AMENDED FINAL BUDGET 10/1/20 - 9/30/21</b>	<b>YEAR TO DATE ACTUAL 10/1/20 - 9/29/21</b>
<b>REVENUES</b>			
Interest Income	225	25	24
NAV Tax Collection	486,750	496,203	496,203
<b>Total Revenues</b>	<b>\$ 486,975</b>	<b>\$ 496,228</b>	<b>\$ 496,227</b>
<b>EXPENDITURES</b>			
Principal Payments	145,000	140,000	140,000
Interest Payments	336,750	339,550	339,550
Bond Redemption	5,225	0	0
<b>Total Expenditures</b>	<b>\$ 486,975</b>	<b>\$ 479,550</b>	<b>\$ 479,550</b>
<b>Excess/ (Shortfall)</b>	<b>\$ -</b>	<b>\$ 16,678</b>	<b>\$ 16,677</b>

FUND BALANCE AS OF 9/30/20	\$599,291
FY 2020/2021 ACTIVITY	\$16,678
FUND BALANCE AS OF 9/30/21	\$615,969

Notes

Reserve Fund Balance = \$245,389\*. Revenue Fund Balance = \$370,580\*.

Revenue Fund Balance To Be Used To Make 11/1/2021 Principal & Interest Payment Of \$313,375 (Principal = \$145,000 & Interest = \$168,375).

\* Approximate Amounts

**Series 2015 Bond Information**

Original Par Amount = \$7,535,000	Annual Principal Payments Due:
Interest Rate = 4.00% - 5.00%	November 1st
Issue Date = December 2015	Annual Interest Payments Due:
Maturity Date = November 2045	May 1st & November 1st

Par Amount As Of 8/31/21= \$6,835,000

**AMENDED FINAL BUDGET**  
**WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT**  
**DEBT SERVICE FUND - SERIES 2019**  
**FISCAL YEAR 2020/2021**  
**OCTOBER 1, 2020 - SEPTEMBER 30, 2021**

	<b>FISCAL YEAR 2020/2021 BUDGET</b>	<b>AMENDED FINAL BUDGET</b>	<b>YEAR TO DATE ACTUAL</b>
<b>REVENUES</b>	<b>10/1/20 - 9/30/21</b>	<b>10/1/20 - 9/30/21</b>	<b>10/1/20 - 9/29/21</b>
Interest Income	50	15	14
NAV Assessment Collection	288,311	<b>293,870</b>	293,870
<b>Total Revenues</b>	<b>\$ 288,361</b>	<b>\$ 293,885</b>	<b>\$ 293,884</b>
<b>EXPENDITURES</b>			
Principal Payments	75,000	<b>75,000</b>	75,000
Interest Payments	210,344	<b>211,750</b>	211,750
Bond Redemption	3,017	<b>0</b>	0
<b>Total Expenditures</b>	<b>\$ 288,361</b>	<b>\$ 286,750</b>	<b>\$ 286,750</b>
<b>Excess/ (Shortfall)</b>	<b>\$ -</b>	<b>\$ 7,135</b>	<b>\$ 7,134</b>

FUND BALANCE AS OF 9/30/20	\$334,473
FY 2020/2021 ACTIVITY	\$7,135
FUND BALANCE AS OF 9/30/21	\$341,608

Notes

Reserve Fund Balance = \$144,766\*. Revenue Fund Balance = \$196,842\*.

Revenue Fund Balance To Be Used To Make 11/1/2021 Principal & Interest Payment Of \$180,172 (Principal = \$75,000 & Interest = \$105,172).

\* Approximate Amounts

**Series 2019 Bond Information**

Original Par Amount = \$4,470,000	Annual Principal Payments Due:
Interest Rate = 3.75% - 5.00%	November 1st
Issue Date = February 2019	Annual Interest Payments Due:
Maturity Date = November 2049	May 1st & November 1st

Par Amount As Of 8/31/21= \$4,395,000

## CDD / HOA MAINTENANCE AGREEMENT

THIS CDD / HOA MAINTENANCE AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between:

**Winding Cypress Community Development District**, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, being situated in Collier County, Florida, and whose mailing address is c/o Special District Services, Inc., The Oaks Center, 2501A Burns Road, Palm Beach Gardens, Florida 33410 ("**District**"); and

**Winding Cypress Homeowners Association, Inc.**, a Florida not-for-profit corporation, whose address is c/o Southwest Property Management, 1044 Castello Drive, Suite 206, Naples, Florida 34103 ("**Association**").

### RECITALS

**WHEREAS**, the District was established by ordinance adopted by the Board of County Commissioners in and for Collier County, Florida, pursuant to the Uniform Community Development District Act of 1980, Chapter 190, *Florida Statutes*, as amended ("**Act**"), and is validly existing under the Constitution and laws of the State of Florida; and

**WHEREAS**, the District presently owns various systems, facilities and infrastructure including, but not limited to, stormwater management improvements and wetlands, and other improvements; and

**WHEREAS**, the District desires to provide for the operation, maintenance and repair of the improvements described in **Exhibit A** attached hereto ("**Work**"), across the lands owned by the District from time to time ("**Property**"); and

**WHEREAS**, the Association is a not-for-profit corporation owning, operating and maintaining various improvements and facilities for the community that the District serves; and

**WHEREAS**, the residents within the community that are served by both the Association and the District benefit from the improvements and may be required to pay for the cost of the Work, regardless whether such Work is conducted by the Association or the District; and

**WHEREAS**, for ease of administration, potential cost savings to property owners and residents and the benefits of fulltime on-site operation and maintenance personnel, the District desires to contract with the Association to provide the Work; and

**WHEREAS**, the Association represents that it is qualified, either in its own right or through its officers, employees, contractors and/or affiliates, to provide the Work and desires to contract with the District to do so in accordance with the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

**SECTION 1. RECITALS.** The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Agreement.

**SECTION 2. SCOPE OF WORK.**

- A. **Work.** Association shall be responsible for providing, or causing to be provided, the Work in an efficient, lawful and satisfactory manner. All Work shall be performed in a neat and professional manner reasonably acceptable to the District and shall be in accordance with industry standards. Association shall be responsible for all of its contractors or subcontractors that perform the Work as if the Association itself were performing such Work.
- B. **Inspection.** Association shall conduct regular inspections of all Property and report any irregularities to the District Manager, or his designated representative, and shall correct any irregularities in accordance with the terms of this Agreement.
- C. **Repair and Maintenance.** Association shall make, or cause to be made, such routine repair work or normal maintenance to the Property as may be required for the operation or physical protection of the Property. Association shall promptly cause emergency repairs to be made when such repairs are necessary for the preservation and safety of persons and/or property, or when the repairs are required to be made to avoid the suspension of any Work. Association shall immediately notify the District Manager, or a designated representative, concerning the need for emergency repairs.
- D. **Investigation and Report of Accidents/Claims.** Association shall promptly investigate and provide a full written report to the District Manager as to all accidents or claims for damage relating to the improvements or the Work. Such report shall at a minimum include a description of any damage or destruction of property and the estimated cost of repair. Association shall cooperate and make any and all reports required by any insurance company or the District in connection with any accident or claim. Association shall not file any claims with the District's insurance company without the prior consent of the District's Board of Supervisors.
- E. **Adherence to District Rules, Regulations and Policies.** Association shall ensure that Association's officers, employees, contractors and affiliates are familiar with all District policies and procedures and are informed with respect to the rules, regulations and notices as may be promulgated by the District from time to time and Association shall ensure that said persons conform therewith. Association assures the District that all third parties will be dealt with at arm's length, and that the District's interest will be best served at all times.
- F. **Care of the District's Improvements.** Association shall use all due care to protect the property of the District, its residents and landowners from damage by Association or its officers, employees, contractors and affiliates. Association agrees to repair any damage resulting from the activities and work of the Association or its officers, employees, contractors and affiliates. The District is not responsible for the cost of repairs from damage resulting from the acts or omissions of the Association or its officers, employees, contractors and affiliates.
- G. **Staffing and Billing.** Association shall be solely responsible for the staffing, budgeting, financing, billing and collection of fees, assessments, service charges, etc., necessary to perform the Work.
- H. **Designation of District Representative.** The District shall designate in writing a person to act as the District's representative with respect to the Work. The District's

representative shall have complete authority to transmit instructions, receive information, interpret and define the District's policies and decisions with respect to materials, equipment, elements and systems pertinent to the Work. The District hereby designates the District Manager to act as its representative.

- I. **Reports.** The Association agrees to meet with the District's representative no less than one time per quarter to walk the Property to discuss conditions, schedules, and items of concern regarding this Agreement.

**SECTION 3. COMPENSATION.** The Association shall provide the Work at no cost to the District. The Association shall not be entitled, for any reason, to reimbursement or refund of any funds expended in the performance of its obligations under this Agreement. The Association agrees that there is sufficient consideration for this Agreement because, among other reasons, the Association benefits from the contracting efficiencies in having all of the public and community infrastructure maintained by a single entity.

**SECTION 4. TERM.** This Agreement commences on the date first written above and continues through September 30, 2022 ("**Initial Term**"). This Agreement shall automatically renew for annual periods thereafter unless terminated pursuant to the terms of this Agreement.

**SECTION 5. INSURANCE.** The Association and its contractors performing any part of the Work shall maintain or cause to be maintained, at its / or their own expense throughout the term of this Agreement, the following insurance:

- A. Worker's Compensation Insurance in accordance with the laws of the State of Florida.
- B. Commercial General Liability Insurance covering legal liability for bodily injuries, with limits of not less than \$1,000,000 combined single limit bodily injury and property damage liability.
- C. Automobile Liability Insurance for bodily injuries in limits of not less than \$1,000,000 combined single limit for bodily injury and for property damage, providing coverage for any accident arising out of or resulting from the operation, maintenance, or use by the Association and/or its contractors of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.

**SECTION 6. LIMITATIONS ON GOVERNMENTAL LIABILITY.** Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

**SECTION 7. COMPLIANCE WITH GOVERNMENTAL REGULATION.** The Association shall keep, observe, and perform all requirements of applicable local, State, and Federal laws, rules, regulations, or ordinances relating to the Property, including but not limited to any applicable permits or other regulatory approvals.

**SECTION 8. LIENS AND CLAIMS.** The Association shall promptly and properly pay for all labor employed, materials purchased, and equipment hired by it to perform under this Agreement. The Association shall keep the District property free from any materialmen's or mechanic's liens and claims



or notices in respect to such liens and claims, which arise by reason of the Association's performance under this Agreement, and the Association shall immediately discharge any such claim or lien.

**SECTION 9. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE.** A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief, and/or specific performance. Without intending to limit the foregoing, the District shall have a "self-help" remedy whereby, in the event of a default by the Association, the District may provide the Work and charge the cost of the Work to the Association, provided that the District first provide the Association with a reasonable opportunity to cure any default. Nothing contained in this Agreement shall limit or impair the District's right to protect its rights from interference by a third party to this Agreement.

**SECTION 10. CUSTOM AND USAGE.** It is hereby agreed, any law, custom, or usage to the contrary notwithstanding, that each party shall have the right at all times to enforce the conditions and agreements contained in this Agreement in strict accordance with the terms of this Agreement, notwithstanding any conduct or custom on the part of the party seeking to enforce the conditions and agreements in refraining from so doing; and further, that the failure of a party at any time or times to strictly enforce its rights under this Agreement shall not be construed as having created a custom in any way or manner contrary to the specific conditions and agreements of this Agreement, or as having in any way modified or waived the same.

**SECTION 11. SUCCESSORS.** This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the parties to this Agreement, except as expressly limited in this Agreement.

**SECTION 12. TERMINATION.** At any time, either party may terminate this Agreement for any reason in its sole discretion and by providing at least sixty (60) days written notice to the other party of its intent to terminate. In the event of termination by the Association, the Association shall be required to provide the District with sufficient funds to provide for the Work contemplated by this Agreement until the District can complete its next regular budget and assessment cycle to incorporate funding into its budget and collect any necessary assessment revenues. Regardless of which party terminates this Agreement, the Association and the District shall cooperate in effectuating – to the extent the District so elects in its sole discretion – a transfer of the obligations under this Agreement including the assignment of maintenance contracts and the transfer of all documentation associated with the provision of Work hereunder including warranty documentation.

**SECTION 13. PERMITS AND LICENSES.** All permits and licenses required by any governmental agency for the operation and maintenance of the District's improvements shall be obtained and paid for by the District.

**SECTION 14. ASSIGNMENT.** No party may assign this Agreement without the prior written approval of the other. Any purported assignment without such written consent shall be void.

**SECTION 15. INDEPENDENT CONTRACTOR STATUS.** In all matters relating to this Agreement, the Association shall be acting as an independent contractor. Neither the Association nor employees of the Association, if there are any, are employees of the District. The Association agrees to assume all liabilities or obligations imposed by any applicable laws with respect to employees of the Association, if there are any, in the performance of this Agreement. The Association shall not have any authority to

assume or create any obligation, express or implied, on behalf of the District and the Association shall have no authority to represent the District as an agent, employee, or in any other capacity.

**SECTION 16. HEADINGS FOR CONVENIENCE ONLY.** The descriptive headings in this Agreement are for convenience only and shall neither control nor affect the meaning or construction of any of the provisions of this Agreement.

**SECTION 17. AGREEMENT.** This instrument shall constitute the final and complete expression of this Agreement between the District and Association relating to the subject matter of this Agreement.

**SECTION 18. AMENDMENTS.** Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the District and the Association.

**SECTION 19. AUTHORIZATION.** The execution of this Agreement has been duly authorized by the appropriate body or official of the District and the Association, both the District and the Association have complied with all the requirements of law, and both the District and the Association have full power and authority to comply with the terms and provisions of this instrument.

**SECTION 20. NOTICES.** All notices, requests, consents and other communications under this Agreement ("**Notices**") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, certified/registered mail, or overnight delivery service, to the parties, at the addresses first set forth above. Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for the Association may deliver Notice on behalf of the District and the Association, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

**SECTION 21. THIRD PARTY BENEFICIARIES.** This Agreement is solely for the benefit of the District and the Association and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the District and the Association any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the District and the Association and their respective representatives, successors and assigns.

**SECTION 22. APPLICABLE LAW AND VENUE.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue for any dispute shall be in a court of appropriate jurisdiction in Collier County, Florida.

**SECTION 23. PUBLIC RECORDS.** The Association understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and,

accordingly, Association agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, *Florida Statutes*. Association acknowledges that the designated public records custodian for the District is its District Manager (“**Public Records Custodian**”). Among other requirements and to the extent applicable by law, the Association shall 1) keep and maintain public records required by the District to perform the service; 2) upon request by the Public Records Custodian, provide the District 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 Chapter 119, *Florida 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 the Association does not transfer the records to the Public Records Custodian of the District; and 4) upon completion of the contract, transfer to the District, at no cost, all public records in Association’s possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Association, the Association 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 the District in a format that is compatible with Microsoft Word or Adobe PDF formats.

**IF THE ASSOCIATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ASSOCIATION’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE PUBLIC RECORDS CUSTODIAN AT C/O KATHLEEN MENEELY, SPECIAL DISTRICT SERVICES, INC., THE OAKS CENTER, 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410; PHONE (561) 630-4922, AND E-MAIL KDAILEY@SDSINC.ORG.**

**SECTION 24. SEVERABILITY.** The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

**SECTION 25. ARM’S LENGTH TRANSACTION.** This Agreement has been negotiated fully between the District and the Association as an arm's length transaction. The District and the Association participated fully in the preparation of this Agreement with the assistance of their respective counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, the parties are each deemed to have drafted, chosen, and selected the language, and any doubtful language will not be interpreted or construed against any party.

**SECTION 26. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute, but one and the same instrument.

**IN WITNESS WHEREOF**, the parties execute this Agreement to be effective the day and year first written above.

**WINDING CYPRESS COMMUNITY DEVELOPMENT DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**WINDING CYPRESS HOMEOWNERS ASSOCIATION, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A:**     Scope of Work

**EXHIBIT A  
SCOPE OF WORK**

**DISTRICT IMPROVEMENTS**

The Association shall operate, maintain and repair the following District stormwater lake improvements located within the below-listed tracts, in accordance with the below-outlined maintenance program.

Tracts "D", "E", "F", "J", "N", "O", "Q", "T" and "U", Winding Cypress Phase One, according to the plat thereof recorded in Plat Book 57 Page 89, Public Records of Collier County;

Tracts "A", "B", "C", "D", "E", "F", "G", and "H", Winding Cypress Phase 2, according to the plat thereof recorded in Plat Book 60 Page 73, Public Records of Collier County Florida LESS AND EXCEPT the portions of Tracts "A", "B", "C", and "D" that were replatted as part of the Winding Cypress Phase 2 Replat according to the plat thereof recorded in Plat Book 62, Page 64, Public Records of Collier County, Florida;

Tract "A", Winding Cypress Phase 2C, according to the plat thereof recorded in Plat Book 60, Page 22, Public Records of Collier County Florida; and

Tracts "A", "L-1", "L-2", "L-3" and "L-4", Winding Cypress Phase 3, according to the plat thereof recorded in Plat Book 65, Page 23, Public Records of Collier County Florida.

**MAINTENANCE PROGRAM**

The Association shall maintain the improvements located within the above-described District Property with regard to water quality, weed control and related items on a regular and as-needed basis to ensure in compliance with all federal, state, and governmental regulations. The District shall maintain the improvements located within the above-described District Property with regard to lake bank and erosion repairs.

Further, District shall maintain all improvements located within the District preserve tracts more particularly described as:

Tracts "P1", "P2", "P3", "P4", "P5", and "P6", Winding Cypress Phase One, according to the plat thereof recorded in Plat Book 57 Page 89, Public Records of Collier County Florida;

Tracts "P1" and "P2", Winding Cypress Phase 2C, according to the plat thereof recorded in Plat Book 60, Page 22, Public Records of Collier County Florida;

Tracts "P1" and "P2", Winding Cypress Phase 3, according to the plat thereof recorded in Plat Book 65, Page 23, Public Records of Collier County Florida;

Tract "P2", Winding Cypress Phase 2, according to the plat thereof recorded in Plat Book 60 Page 73, Public Records of Collier County Florida; and

Tract "P1", Winding Cypress Phase 2, according to the plat thereof recorded in Plat Book 60  
Page 73, Public Records of Collier County Florida LESS AND EXCEPT:

BEGINNING at the southeast corner of said Section 2;

Thence along the south line of said Section 2, North 87°02'48" West 2,717.79 feet to the south ¼ corner of said Section 2;

Thence continue along said line, North 89°27'31" West 233.96 feet to a point on the northerly right-of-way line of U.S. 41 the Tamiami Trail;

Thence along said line North 54°21'26" West 1,371.03 feet;

Thence leaving said line and along the east line of a Florida Power and Light Company Easement Parcel 204 as recorded in Official Record Book 853, page 317, of the Public Records of Collier County, Florida North 00°42'08" East 2,104.09 feet;

Thence leaving said line South 71°34'39" East 91.12 feet;

Thence easterly, 321.79 feet along the arc of a circular curve concave north having a radius of 1,040.00 feet through central angle of 17°43'41" and being subtended by a chord which bears South 80°26'29" East 320.51 feet to a point of reverse curvature;

Thence easterly, 125.73 feet along the arc of a circular curve concave south, having a radius of 920.00 feet through a central angle of 07°49'49" subtended by a chord which bears South 85°23'26" East 125.63 feet;

Thence South 81°28'31" East 366.33 feet;

Thence easterly and northeasterly, 698.72 feet along the arc of a circular curve concave north having a radius of 1,040.00 feet through central angle of 38°29'38" and being subtended by a chord which bears North 79°16'40" East 685.65 feet;

Thence North 60°01'51" East 727.14 feet;

Thence northeasterly, 461.94 feet along the arc of a circular curve concave south having a radius of 960.00 feet through central angle of 27°34'13" and being subtended by a chord which bears North 73°48'57" East 457.50 feet;

Thence North 87°36'05" East 128.48 feet;

Thence South 10°45'11" East 37.41 feet;

Thence South 29°56'12" West 15.55 feet;

Thence westerly, 247.73 feet along the arc of a non-tangential circular curve concave southeast having a radius of 142.58 feet through a central angle of 99°33'07" and being subtended by a chord which bears South 52°03'49" West 217.73 feet;

Thence southerly and southeasterly, 110.80 feet along the arc of a non-tangential circular curve concave east having a radius of 153.59 feet through a central angle of 41°19'57" and being subtended by a chord which bears South 01°52'18" West 108.41 feet;

Thence southeasterly, 77.93 feet along the arc of a non-tangential circular curve concave west having a radius of 10,665.83 feet through a central angle of 00°25'07" and being subtended by a chord which bears South 19°32'39" East 77.93 feet;

Thence southeasterly, 64.47 feet along the arc of a non-tangential circular curve concave west having a radius of 698.50 feet through a central angle of 05°17'17" and being subtended by a chord which bears South 17°06'34" East 64.44 feet;

Thence South 22°30'46" East 157.87 feet;

Thence South 19°42'16" East 154.59 feet;

Thence 173.41 feet along the arc of a non-tangential circular curve concave west having a radius of 1,699.13 feet through a central angle of 05°50'51" and being subtended by a chord which bears South 21°39'50" East 173.33 feet to a point of compound curve;

Thence southerly, 66.06 feet along the arc of a circular curve concave west having a radius of 151.25 feet through central angle of 25°01'24" and being subtended by a chord which bears South 06°13'43" East 65.53 feet;

Thence southeasterly, 76.92 feet along the arc of a non-tangential circular curve concave east having a radius of 78.92 feet through a central angle of 55°50'30" and being subtended by a chord which bears South 21°38'21" East 73.91 feet;

Thence southeasterly, 193.99 feet along the arc of a non-tangential circular curve concave east having a radius of 292.98 feet through a central angle of 37°56'10" and being subtended by a chord which bears South 20°57'18" East 190.46 feet;

Thence southerly, 39.47 feet along the arc of a non-tangential circular curve concave east having a radius of 70.00 feet through a central angle of 32°18'32" and being subtended by a chord which bears South 01°38'51" West 38.95 feet to a point of reverse curvature;

Thence southerly, 30.57 feet along the arc of a circular curve concave west, having a radius of 80.00 feet through a central angle of 21°53'47" subtended by a chord which bears South 03°33'32" East 30.39 feet to a point of reverse curvature;

Thence southerly, 19.09 feet along the arc of a circular curve concave east, having a radius of 50.00 feet through a central angle of 21°52'21" subtended by a chord which bears South 03°32'49" East 18.97 feet;

Thence southerly, 71.01 feet along the arc of a non-tangential circular curve concave east having a radius of 270.34 feet through a central angle of 15°03'00" and being subtended by a chord which bears South 05°39'25" East 70.81 feet;

Thence southerly, 88.89 feet along the arc of a non-tangential circular curve concave east having a radius of 505.56 feet through a central angle of 10°04'26" and being subtended by a chord which bears South 06°52'02" East 88.77 feet to a point of compound curve;

Thence southeasterly, 29.76 feet along the arc of a circular curve concave northeast having a radius of 55.00 feet through central angle of 31°00'11" and being subtended by a chord which bears South 27°24'21" East 29.40 feet;

Thence South 42°54'24" East 176.77 feet;

Thence easterly, 58.57 feet along the arc of a non-tangential circular curve concave north having a radius of 40.00 feet through a central angle of 83°53'52" and being subtended by a chord which bears South 84°06'54" East 53.48 feet;

Thence North 70°20'16" East 3.69 feet;

Thence North 88°55'11" East 4.49 feet;

Thence South 76°33'37" East 4.00 feet;

Thence South 54°20'51" East 4.28 feet;

Thence southeasterly, 47.58 feet along the arc of a non-tangential circular curve concave northeast having a radius of 72.58 feet through a central angle of 37°33'28" and being subtended by a chord which bears South 52°46'15" East 46.73 feet;

Thence southeasterly, 10.52 feet along the arc of a non-tangential circular curve concave south having a radius of 80.00 feet through a central angle of 07°32'07" and being subtended by a chord which bears South 68°42'04" East 10.51 feet;

Thence easterly, 150.98 feet along the arc of a non-tangential circular curve concave north having a radius of 231.70 feet through a central angle of 37°20'05" and being subtended by a chord which bears South 83°36'02" East 148.32 feet;

Thence South 64°10'51" East 40.44 feet;

Thence southeasterly, 30.88 feet along the arc of a non-tangential circular curve concave northeast having a radius of 880.00 feet through a central angle of 02°00'38" and being subtended by a chord which bears South 38°19'49" East 30.88 feet;

Thence South 39°20'08" East 66.16 feet;

Thence South 59°12'33" East 9.16 feet;

Thence South 64°06'19" East 42.11 feet;

Thence South 27°31'46" East 47.72 feet;

Thence South 21°09'33" West 12.59 feet;

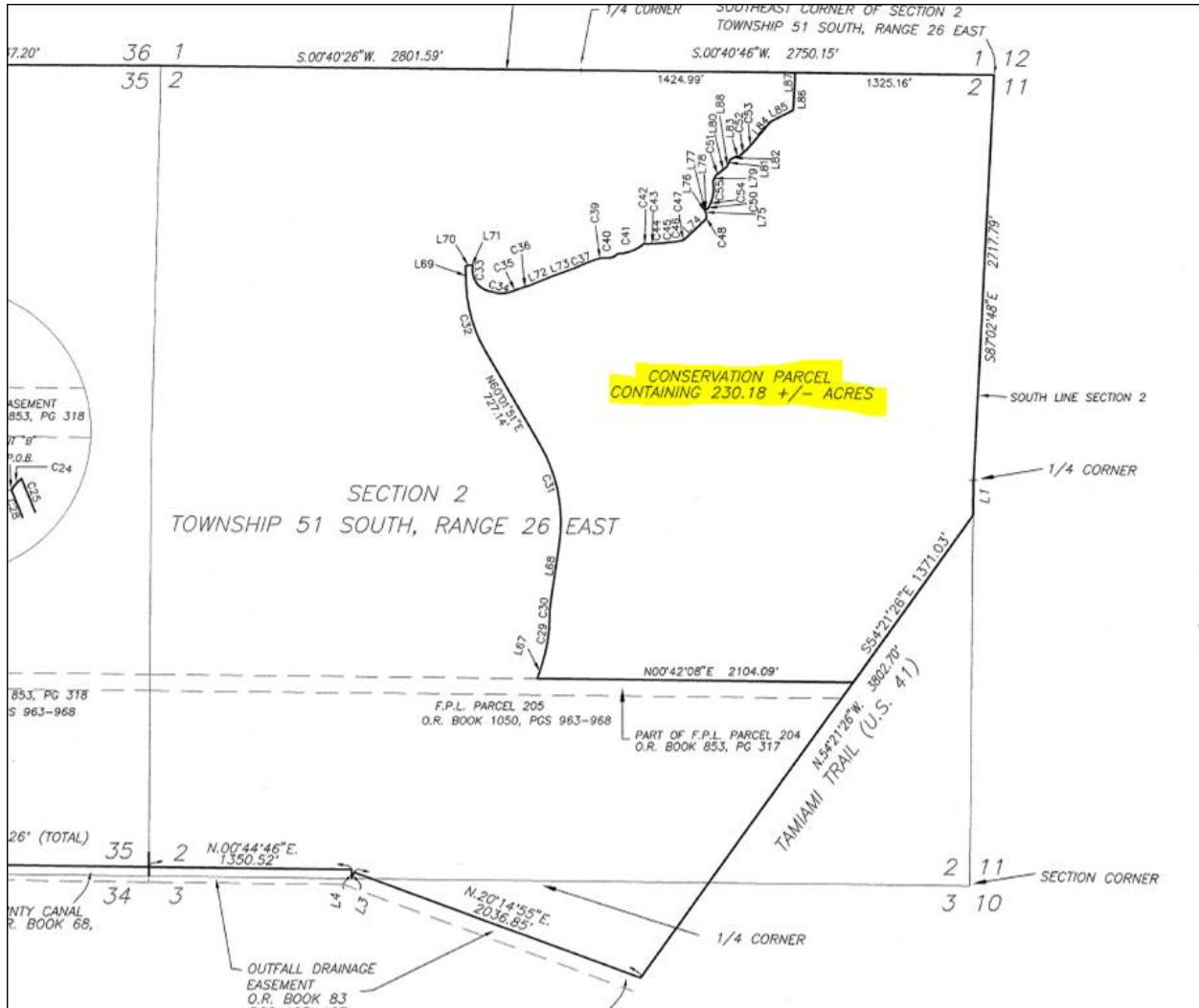
Thence southeasterly, 78.62 feet along the arc of a non-tangential circular curve concave northeast having a radius of 780.00 feet through a central angle of 05°46'31" and being subtended by a chord which bears South 42°46'26" East 78.59 feet;

Thence southeasterly, 63.78 feet along the arc of a non-tangential circular curve concave northeast having a radius of 780.00 feet through a central angle of 04°41'05" and being subtended by a chord which bears South 48°00'16" East 63.76 feet;

Thence South 50°20'48" East 175.24 feet;

Thence South 26°43'02" East 170.36 feet;  
 Thence South 86°53'29" East 233.86 feet;  
 Thence South 90°00'00" East 20.00 feet to a point on the ease line of said Section 2;  
 Thence along said line South 00°40'46" West 1,325.16 feet to southeast corner of said Section 2 and the POINT OF BEGINNING of the parcel herein described;

Containing 230.18 acres, more or less. [as depicted below]





# Hopping Green & Sams

Attorneys and Counselors

October 15, 2021

VIA EMAIL

Kathleen Dailey, District Manager

kdailey@sdsinc.org

Scott Brooks

scott.brooks@pultegroup.com

**RE: Winding Cypress Community Development District ("Client")**

**JOINT LETTER BY HOPPING GREEN & SAMS, P.A. AND KUTAK ROCK LLP, ANNOUNCING THE DEPARTURE OF JONATHAN JOHNSON, KATIE BUCHANAN, MIKE ECKERT, TUCKER MACKIE, WES HABER, LINDSAY WHELAN, JOE BROWN, SARAH SANDY, ALYSSA WILLSON AND MICHELLE RIGONI TO KUTAK ROCK LLP**

Dear Kathleen/Scott,

As of November 15, 2021, Jonathan Johnson, Katie Buchanan, Mike Eckert, Tucker Mackie, Wes Haber, Lindsay Whelan, Joe Brown, Sarah Sandy, Alyssa Willson and Michelle Rigoni (the "Special District Practice Group") will be withdrawing as attorneys from Hopping Green & Sams, P.A. ("HGS") and will be joining Kutak Rock LLP ("Kutak"). The members of the Special District Practice Group have provided services in connection with HGS's representation of the Client in one or more matter(s) ("Client Matters").

In the coming months, HGS will no longer be providing legal services. Kutak is prepared to continue as the Client's legal counsel with respect to the Client Matters; however, it is the Client's choice as to who should serve as its legal counsel, and whether the Client Matters and all electronic files and active and closed hardcopy files (collectively, the "Files") should be transferred to Kutak.

Please select one of the following alternatives; however, please be advised that as of November 15, 2021, HGS will no longer be competent to provide legal services to the Client; accordingly, representation by HGS will cease on November 15, 2021, whether or not the Client makes an election below:

**1. ALTERNATIVE #1.** The Client asks that the Client Matters be transferred with the Special District Practice Group to their new firm, Kutak. Please transfer all Files relating to the Client Matters. HGS's legal representation of the Client will cease on the date of HGS's receipt of their written notice. After that date, the Special District Practice Group and their new firm, Kutak, will be responsible for legal representation of the Client in the Client Matters. To the extent that HGS is holding any trust funds or other property of the Client, HGS is further instructed to transfer such funds and/or property to Kutak.

---

**(Please sign if you want Alternative #1; [DATE]  
otherwise, do not sign on this line.)**

**2. ALTERNATIVE #2.** If you do not want Alternative #1, please advise us what HGS should do regarding the Client Matters and all Files relating to the Client Matters by December 1, 2021. HGS's legal representation of the Client will cease on November 15, 2021. If HGS does not receive a response by December 1, 2021, that will confirm HGS's understanding that all Files are not needed or desired and HGS will shred them.

---

**(Please sign here if you have [DATE]**

**given instructions under Alternative  
#2; otherwise do not sign on this line.)**

After you have completed and signed this form, please send a copy via electronic mail to JasonM@hgslaw.com, MarkS@hgslaw.com, JJohnson@hgslaw.com, AlyssaW@hgslaw.com, and KimH@hgslaw.com.

Thank you for your consideration and assistance.

**HOPPING GREEN & SAMS, P.A.**



By: Jonathan Johnson

Its: President

Date: October 15, 2021

## RETENTION AND FEE AGREEMENT

### I. PARTIES

THIS RETENTION AND FEE AGREEMENT (“**Agreement**”) is made and entered into by and between the following parties:

- A. Winding Cypress Community Development District (“**Client**”)  
c/o Special District Services  
2501A Burns Road  
Palm Beach Gardens, FL 33410

and

- B. Kutak Rock LLP (“**Kutak Rock**”)

\_\_\_\_\_  
P.O. Box \_\_\_\_\_  
Tallahassee, Florida \_\_\_\_\_

### II. SCOPE OF SERVICES

In consideration of the mutual undertakings and agreements contained herein, the parties agree as follows:

- A. The Client agrees to employ and retain Kutak Rock as its attorney and legal representative for general advice, counseling and representation of Client and its Board of Supervisors.
- B. Kutak Rock accepts such employment and agrees to serve as attorney for and provide legal representation to the Client in connection with those matters referenced above. No other legal representation is contemplated by this Agreement. Any additional legal services to be provided under the terms of this Agreement shall be agreed to by Client and Kutak Rock in writing. Unless set forth in a separate agreement to which Client consents in writing, Kutak Rock does not represent individual members of the Client’s Board of Supervisors.

### III. CLIENT FILES

The files and work product materials (“**Client File**”) of the Client generated or received by Kutak Rock will be maintained confidentially to the extent permitted by law and in accordance with the Florida Bar rules. At the conclusion of the representation, the Client File will be stored by Kutak Rock for a minimum of five (5) years. After the five (5) year storage period, the Client hereby acknowledges and consents that Kutak Rock may confidentially destroy or shred the Client File. Notwithstanding the prior sentence, if the Client provides Kutak Rock with a written request for the return of the Client File before the end of the five (5) year storage period, then Kutak Rock will return the Client File to Client at Client’s expense.

#### IV. FEES

- A. The Client agrees to compensate Kutak Rock for services rendered in connection with any matters covered by this Agreement on an hourly rate basis plus actual expenses incurred by Kutak Rock in accordance with the attached Expense Reimbursement Policy (Attachment A, incorporated herein by reference). Time will be billed in increments of one-tenth (1/10) of an hour. Certain work related to issuance of bonds and bond anticipation notes may be performed under a flat fee to be separately established prior to or at the time of bond or note issuance.
- B. Attorneys and staff, if applicable, who perform work for Client will be billed at their regular hourly rates, as may be adjusted from time to time. The regular hourly rates of those initially expected to handle the bulk of Client's work are as follows:

Jonathan T. Johnson	\$415
Alyssa C. Willson	\$275
Associates	\$250 - \$270
Paralegals	\$145

Kutak Rock's regular hourly billing rates are reevaluated annually and are subject to change not more than once in a calendar year. Client agrees to Kutak Rock's annual rate increases to the extent hourly rates are not increased beyond \$15/hour.

- C. To the extent practicable and consistent with the requirements of sound legal representation, Kutak Rock will attempt to reduce Client's bills by assigning each task to the person best able to perform it at the lowest rate, so long as he or she has the requisite knowledge and experience.
- D. Upon consent of Client, Kutak Rock may subcontract for legal services in the event that Client requires legal services for which Kutak Rock does not have adequate capabilities.
- E. Kutak Rock will include costs and expenses (including interest charges on past due statements) on its billing statements for Client reimbursement in accordance with the attached Expense Reimbursement Policy.

#### V. BILLING AND PAYMENT

The Client agrees to pay Kutak Rock's monthly billings for fees and expenses incurred within thirty (30) days following receipt of an invoice, or the time permitted by Florida law, whichever is greater. Kutak Rock shall not be obligated to perform further legal services under this Agreement if any such billing statement remains unpaid longer than thirty (30) days after submittal to and receipt by Client. Non-payment of billing statements shall be a basis for Kutak Rock to immediately withdraw from the representation without regard to remaining actions necessitating attention by Kutak Rock as part of the representation.

## **VI. DEFAULT; VENUE**

In any legal proceeding to collect outstanding balances due under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to costs and outstanding balances due under this Agreement. Venue of any such action shall be exclusive in the state courts of the Second Judicial Circuit in and for Leon County, Florida.

## **VII. CONFLICTS**

It is important to disclose that Kutak Rock represents a number of special districts, trustees ("Trustees"), bondholders, developers, builders, and other entities throughout Florida and the United States of America relating to community development districts, special districts, local governments and land development. Kutak Rock or its attorneys may also have represented the entity which petitioned for the formation of the Client. Kutak Rock understands that Client may enter into an agreement with a Trustee in connection with the issuance of bonds, and that Client may request that Kutak Rock simultaneously represent Client in connection with the issuance of bonds, while Kutak Rock is also representing such Trustee on unrelated matters. By accepting this Agreement Client agrees that (1) Client was provided with an explanation of the implications of the common representation(s) and the advantages and risks involved; (2) Kutak Rock will be able to provide competent and diligent representation of Client, regardless of Kutak Rock's other representations, and (3) there is not a substantial risk that Kutak Rock's representation of Client would be materially limited by Kutak Rock's responsibilities to another client, a former client or a third person or by a personal interest. Acceptance of this Agreement will constitute Client's waiver of any "conflict" with Kutak Rock's representation of various special districts, Trustees, bondholders, developers, builders, and other entities relating to community development districts, special districts, local governments and land development.

## **VIII. ACKNOWLEDGMENT**

Client acknowledges that the Kutak Rock cannot make any promises to Client as to the outcome of any legal dispute or guarantee that Client will prevail in any legal dispute.

## **IX. TERMINATION**

Either party may terminate this Agreement upon providing prior written notice to the other party at its regular place of business. All fees due and payable in accordance with this Agreement shall accrue and become payable pursuant to the terms of this Agreement through the date of termination.

## **X. EXECUTION OF AGREEMENT**

This Agreement shall be deemed fully executed upon its signing by Kutak Rock and the Client. The contract formed between Kutak Rock and the Client shall be the operational contract between the parties.

**XI. ENTIRE CONTRACT**

This Agreement constitutes the entire agreement between the parties.

Accepted and Agreed to:

**WINDING CYPRESS COMMUNITY  
DEVELOPMENT DISTRICT**

**KUTAK ROCK LLP**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

## ATTACHMENT A

### KUTAK ROCK LLP CDD EXPENSE REIMBURSEMENT POLICY

The following is Kutak Rock's expense reimbursement policy for community development district representation. This policy applies unless a different arrangement has been negotiated based on the unique circumstances of a particular client or matter.

All expenses are billed monthly. Billings ordinarily reflect expenses for the most recent month, except where there are delays in receiving bills from third party vendors.

Photocopying and Printing. In-house photocopying and printing are charged at \$0.25 per page (black & white) and \$0.50 per page (color). Outside copying is billed as a pass-through of the outside vendor's charges.

Postage. Postage is billed at actual cost.

Overnight Delivery. Overnight delivery is billed at actual cost.

Local Messenger Service. Local messenger service is billed at 44.5 cents per mile pursuant to Section 112.061, Florida Statutes. Should the State increase the mileage allowance specified in Section 112.061, Florida Statutes, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate.

Computerized Legal Research. Charges for computerized legal research are billed at an amount approximating actual cost.

Travel. Travel (including air fare, rental cars, taxicabs, hotel, meals, tips, etc.) is billed at actual cost. Where air travel is required, coach class is used wherever feasible. Out-of-town mileage is billed at 44.5 cents per mile pursuant to Section 112.061, Florida Statutes. Should the State increase the mileage allowance specified in Section 112.061, Florida Statutes, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate. Reasonable travel-related expenses for meals, lodging, gratuities, taxi fares, tolls, and parking fees shall also be reimbursed.

Consultants. Unless prior arrangements are made, consultants are ordinarily employed directly by the client. Where consulting or testifying experts are employed by the firm, their charges are passed through with no mark-up. The client is responsible for notifying the firm of any particular billing arrangements or procedures which the client requires of the consulting or testifying experts.

Other Expenses. Other outside expenses, such as court reporters, agency copies, conference calls, etc. are billed at actual cost.