

Meeting Date
12/1/15



AGENDA	
Section	PUBLIC HEARINGS
Item No.	IV B

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	PUBLIC HEARING RE: REQUEST FROM SWALLOWTAIL, LLC TO ESTABLISH THE FARMTON-BREVARD COMMUNITY DEVELOPMENT DISTRICT (DISTRICT 1)
DEPT/OFFICE:	Planning & Development Department

Requested Action:
It is requested that the Board consider approval of the applicant's request to establish the Farmton-Brevard Community Development District (CDD).

Summary Explanation & Background:

Swallowtail, LLC has filed a petition to create a new community development district on approximately 983 acres in the Farmton area of northwest Brevard County, pursuant to Chapter 190, Florida Statutes. Since the proposed district encompasses less than 1,000 acres, the Board of County Commissioners is authorized by State Statutes to approve or deny the petition. The Statutes cite the following issues for consideration:

1. Whether all statements contained within the petition have been found to be true and correct.
2. Whether the establishment of the district is inconsistent with any applicable element or portion of the State Comprehensive Plan or of the effective local government Comprehensive Plan.
3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.
5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area that will be served by the district is amenable to separate special-district government.

A staff report addressing these issues is attached for your information. The petitioner may also present testimony at the public hearing addressing these issues.

FY 15/16 Fiscal Impact: Creation of the CDD will allow Swallowtail, LLC to construct the roadway, potable water, sanitary sewer, storm water management, security, and landscape/streetscape infrastructure improvements necessary to proceed with development.

Clerk to the Board instruction: Chair to sign the ordinance, send certified copy to Department of State, and return a signed copy of the ordinance to Department.

Exhibits Attached: Staff Report, Petition, Ordinance

Contract /Agreement (If attached)	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension
Stockton Whitten		Robin M. Sobrino, AICP 5-2069



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

December 2, 2015

MEMORANDUM

TO: Robin Sobrino, Planning and Development Director

RE: Item IV.B., Ordinance Request from Swallowtail, LLC to Establish the Farnton-Brevard Community Development District (CDD)

The Board of County Commissioners, in regular session on December 1, 2015, adopted Ordinance No. 15-30, establishing the Farnton-Brevard Community Development District (CDD). Enclosed is a certified copy of the Ordinance for your action.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/ds

Encls. (1)



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 2, 2015

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas, Administrative Assistant

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2015-30, which was filed in this office on December 2, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 2015- 30

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED IN EXHIBIT "2" TO THIS ORDINANCE COMPRISING APPROXIMATELY 983 ACRES; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT AS FARMTON - BREVARD COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes to provide an alternative method to finance and manage basic services for community developments; and,

WHEREAS, Swallowtail, LLC., a Delaware Limited Liability Company (the "Petitioner"), has petitioned Brevard County, Florida (the "County") to grant the establishment of the Farmton – Brevard Community Development District (the "District"); and,

WHEREAS, a public hearing was conducted by the Board of County Commissioners of Brevard County, Florida (the "Board") in accordance with the requirements and procedures of Section 190.005(1)(d), Florida Statutes, as amended and supplemented; and,

WHEREAS, the District will constitute a timely, efficient, responsive and economical way to deliver community development services; and,

WHEREAS, the creation of the District is consistent with all applicable goals, objectives and policies of the Brevard County Comprehensive Plan; and,

WHEREAS, the area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functionally interrelated community; and,

WHEREAS, the creation of the District is the best alternative available for delivering the community development services and facilities to the area that will be served by the District; and,

WHEREAS, the proposed services and facilities to be provided by the District will be compatible with the capacity and uses of the existing local and regional community

development services and facilities; and,

WHEREAS, the area that will be served by the District is amenable to separate special district government; and,

WHEREAS, the District desires to levy special assessments on purchasers of benefited land within the District to pay for infrastructure constructed by the District; and,

WHEREAS, the District shall acquire or construct potable water and wastewater facilities in accordance with applicable standards and procedures of the Brevard County Water Resources Department; and,

WHEREAS, the District shall acquire or construct and maintain a stormwater management system in accordance with applicable standards and procedures of the Brevard County Regional Stormwater Utility Department; and,

WHEREAS, the District shall acquire or construct all public roads in accordance with applicable standards and procedures of the Brevard County Permitting and Enforcement Department; and,

WHEREAS, the District will not have any zoning or development permitting authority and the establishment of the District is not a development order; and,

WHEREAS, development of land within the District will be subject to all applicable land development regulations of Brevard County, Florida; and,

WHEREAS, the Board of County Commissioners held a public hearing on March 16, 2004 to consider the petition and decided that the Farmton - Brevard Community Development District is the best alternative means to provide certain basic public services to the community; and,

WHEREAS, the Board of County Commissioners finds that the Farmton - Brevard Community Development District shall have the powers described in Section 190.011, Florida Statutes, as amended and supplemented.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. The petition to establish Farmton - Brevard Community Development District over the real property described in Exhibit "2" attached hereto, which was filed by Swallowtail, LLC on September 23, 2015, and which Petition is on file at the Brevard County Planning and Development Department, is hereby granted.

Section 2. The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated as Exhibit "1".

Section 3. The initial members of the Board of Supervisors shall be as follows:

1. Glenn D. Storch
2. Michael A. Brown
3. Mark Dowst
4. Catherine Storch
5. Sans Lassiter

Section 4. The name of the District shall be "Farmton – Brevard Community Development District".

Section 5. The District is created for the purposes set forth in and prescribed in the Petition.

Section 6. The Board hereby grants to Farmton - Brevard Community Development District all general powers authorized pursuant to Section 190.011, Florida Statutes, as amended and supplemented and hereby finds that it is in the public interest of the citizens of the County to grant such general powers.

Section 7. The exclusive charter for the District shall be the uniform community development district charter set forth in sections 190.06 through 190.041, including the special powers provided by section 190.12, Florida Statutes (2003), as may be amended and supplemented.

Section 8. The District is solely responsible for the implementation of special assessments upon benefited property within the District's internal boundaries and shall provide notice of said special assessments to all prospective purchasers of said property.

Section 9. The District shall provide full disclosure of the public financing and maintenance of improvements undertaken by the District. This disclosure shall include a statement in bold print that special assessments imposed by the District will appear in the tax bill. This disclosure shall meet the requirement of Section 190.048, Florida Statutes, as amended and supplemented, and shall be included in every contract for sale and in every recorded deed.

Section 10. If any clause, or other part or application of this ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so

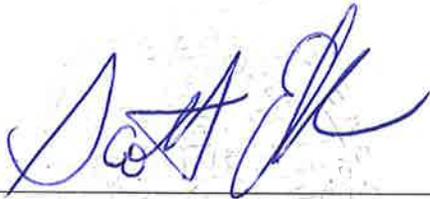
not affecting the validity of the remaining portions or applications which shall remain in full force and effect.

Section 11. This ordinance shall take effect upon filing with the Department of State, per Section 125.66, Florida Statutes, as amended and supplemented.

DONE, ORDERED AND ADOPTED in regular session this 1st day of December, 2015.

Attest:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**



Scott Ellis, Clerk



Jim Barfield, Chairman

As approved by the Board on December 1, 2015.

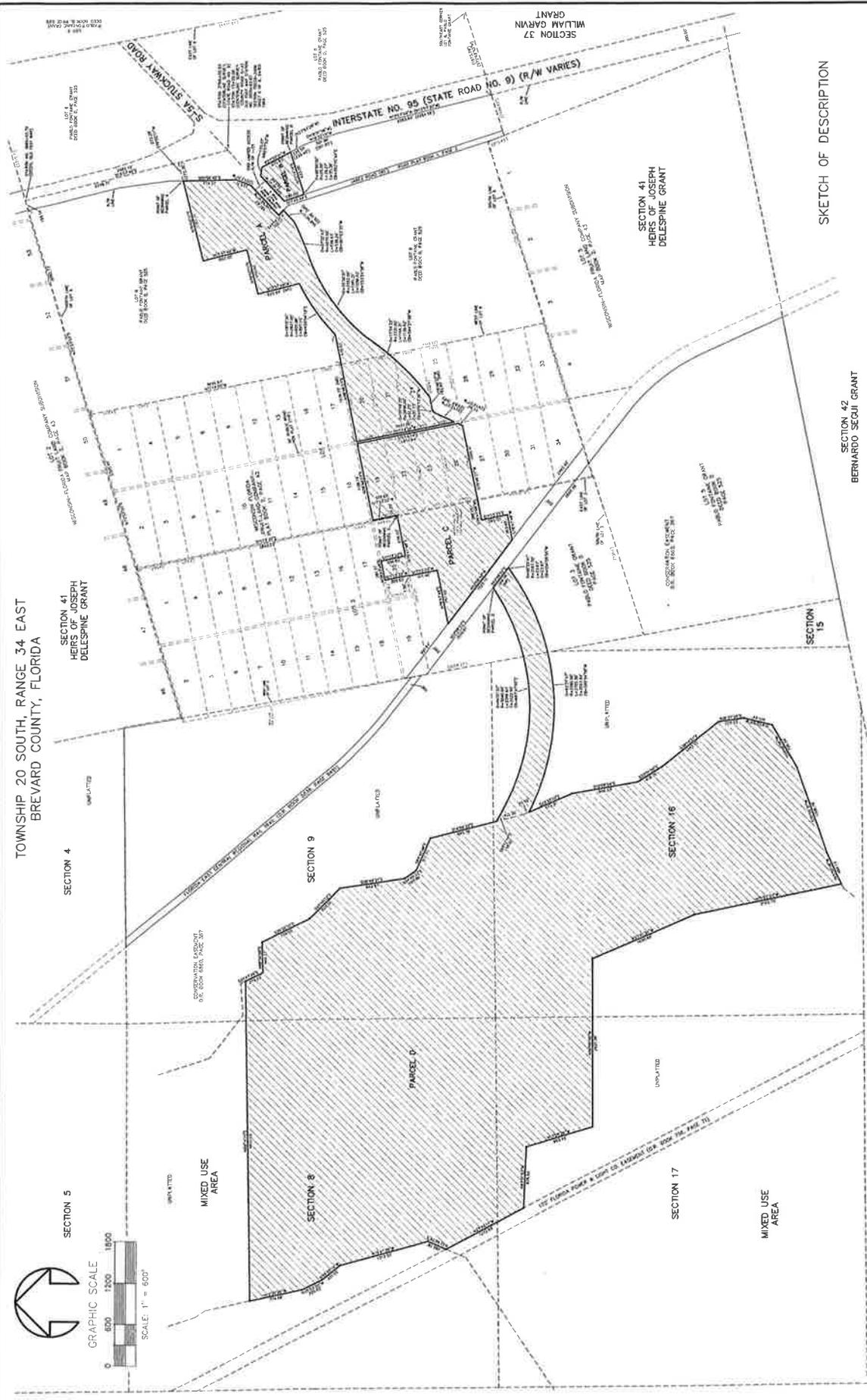
(SEAL)

EXHIBIT 1



GRAPHIC SCALE
0 600 1200 1800
SCALE: 1" = 600'

TOWNSHIP 20 SOUTH, RANGE 34 EAST
BREVARD COUNTY, FLORIDA



SECTION 41
HEIRS OF JOSEPH
DELESPINE GRANT

SECTION 42
BERNARDO SECUI GRANT

SECTION 42
BERNARDO SECUI GRANT

SECTION 42
BERNARDO SECUI GRANT

PROJECT NO.	1122
DATE	11-28-15
SCALE	1" = 600'
MARK DOHERTY & ASSOCIATES, INC. 330 NORTH PALM AVENUE, SUITE 100, PALM BEACH, FLORIDA 33480 PHONE: (561) 850-1100 FAX: (561) 850-1101 WWW: WWW.MARKDOHERTY.COM	
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD OF THIS SURVEY AND THAT THE SAME HAS BEEN FILED FOR RECORD IN THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.	
I, MARK DOHERTY , REGISTERED PROFESSIONAL SURVEYOR, NO. 12345, STATE OF FLORIDA, AM THE SURVEYOR OF THIS SURVEY.	
THIS SURVEY DRAWING IS THE PROFESSIONAL OPINION OF THE SURVEYOR AND AS SUCH DOES NOT CONSTITUTE A GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND ACCURATE. THE SURVEYOR'S RESPONSIBILITY IS LIMITED TO THE INFORMATION PROVIDED TO HIM BY THE CLIENT AND THE DATA OBTAINED FROM HIS FIELD WORK. THE SURVEYOR DOES NOT WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED TO HIM BY THE CLIENT OR THE DATA OBTAINED FROM HIS FIELD WORK.	
I, MARK DOHERTY , REGISTERED PROFESSIONAL SURVEYOR, NO. 12345, STATE OF FLORIDA, AM THE SURVEYOR OF THIS SURVEY.	

EXHIBIT 2

PARCEL A

A PART OF LOT 6, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND A PART OF LOTS 20, 21, 24 AND 25, LOT 4, WISCONSIN FLORIDA FRUIT LAND COMPANY, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 43, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE NORTH LINE OF SAID LOT 6, WITH THE CENTERLINE OF INTERSTATE NO. 95 (STATE ROAD NO. 9), A VARIABLE WIDTH RIGHT OF WAY, ALSO KNOWN AS STATION 3685+65.72, BASED ON STATE ROAD DEPARTMENT RIGHT OF WAY MAP, SECTION 70220-2409, SHEET 5 OF 6, DATED 1964, AND UNRECORDED MAPS OF CAPE ATLANTIC ESTATES, RUN S.13°57'49"E., ALONG SAID CENTERLINE, A DISTANCE OF 2248.71 FEET; THENCE DEPARTING SAID CENTERLINE, RUN S.76°02'11"W., A DISTANCE OF 272.28 FEET TO THE WEST RIGHT OF WAY LINE OF SAID INTERSTATE NO. 95, AND THE POINT OF BEGINNING; THENCE S.00°56'45"E., ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 774.37 FEET; THENCE S.20°13'31"W., ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 223.71 FEET; THENCE S.46°46'41"W., ALONG SAID WEST RIGHT OF WAY LINE, AND THE NORTH RIGHT OF WAY LINE OF STUCKWAY ROAD AS RECORDED IN ROAD PLAT BOOK 1, PAGE 2, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 591.83 FEET; THENCE S.43°14'51"E., ALONG THE RIGHT OF WAY LINE OF SAID STUCKWAY ROAD, A DISTANCE OF 100.11 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN S.46°46'11"W., A DISTANCE OF 225.78 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 4075.00 FEET, A CENTRAL ANGLE OF 07°32'43", A CHORD BEARING OF S.67°23'35"W., AND A CHORD DISTANCE OF 536.24 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 536.63 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2552.00 FEET, A CENTRAL ANGLE OF 35°30'01", A CHORD BEARING OF S.53°24'56"W., AND A CHORD DISTANCE OF 1556.03 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1581.21 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 3731.00 FEET, A CENTRAL ANGLE OF 17°34'22", A CHORD BEARING OF S.44°27'06"W., AND A CHORD DISTANCE OF 1139.83 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1144.31 FEET; THENCE S.78°46'27"W., A DISTANCE OF 182.60 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 3656.00 FEET, A CENTRAL ANGLE OF 00°48'39", A CHORD BEARING OF S.56°13'36"W., AND A CHORD DISTANCE OF 51.73 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 51.73 FEET; THENCE S.25°12'07"W., A DISTANCE OF 325.83 FEET; THENCE N.11°14'14"W., ALONG THE WEST LINE OF SAID LOTS 20, 21, 24 AND 25, A DISTANCE OF 1437.00 FEET; THENCE N.78°46'27"E., ALONG THE NORTH LINE OF SAID LOT 20, AND THE EASTERLY EXTENSION THEREOF, A DISTANCE OF 1576.75 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2827.00 FEET, A CENTRAL ANGLE OF 18°15'36", A CHORD BEARING OF N.55°04'18"E., AND A CHORD DISTANCE OF 897.15 FEET; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 900.96 FEET; THENCE N.13°57'49"W., A DISTANCE OF 622.94 FEET; THENCE N.76°02'11"E., A DISTANCE OF 660.00 FEET; THENCE N.13°57'49"W., A DISTANCE OF 660.00 FEET; THENCE N.76°02'11"E., A DISTANCE OF 1197.71 FEET TO THE POINT OF BEGINNING.

CONTAINING 80.806 ACRES, MORE OR LESS.

PARCEL B

A PART OF LOT 6, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SAID LOT 6, RUN S.72°42'53"W., ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 1873.79 FEET TO THE WEST RIGHT OF WAY LINE OF INTERSTATE NO. 95 (STATE ROAD NO. 9), A VARIABLE WIDTH RIGHT OF WAY; THENCE RUN ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING COURSES AND DISTANCES: N.13°57'49"W., A DISTANCE OF 2283.84 FEET; THENCE N.18°32'15"W., A DISTANCE OF 501.86 FEET; THENCE N.27°55'01"W., A DISTANCE OF 235.55 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.27°55'01"W., A DISTANCE OF 470.63 FEET; THENCE N.80°07'53"W., A DISTANCE OF 125.07 FEET; THENCE RUN ALONG SAID WEST RIGHT OF WAY LINE, AND THE RIGHT OF WAY LINES OF STUCKWAY ROAD, A 200 FOOT RIGHT OF WAY, AND JABEZ ROAD, AN 80 FOOT RIGHT OF WAY, AS RECORDED IN ROAD PLAT BOOK 1, PAGE 2, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, THE FOLLOWING COURSES AND DISTANCES: S.46°46'41"W., A DISTANCE OF 503.08 FEET; THENCE S.17°45'44"E., A DISTANCE OF 280.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF S.62°45'44"E., AND A CHORD DISTANCE OF 35.36; THENCE DEPARTING THE RIGHT OF WAY LINE OF SAID JABEZ ROAD, RUN EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 39.27 FEET; THENCE N.72°14'16"E., A DISTANCE OF 623.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.998 ACRES, MORE OR LESS.

PARCEL C

A PART OF LOTS 3 AND 4, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A PART OF LOT 20, LOT 3, AND A PART OF LOTS 19, 22, 23 AND 26, LOT 4, WISCONSIN FLORIDA FRUIT LAND COMPANY, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 43, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE EASTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 20, WITH THE EAST LINE OF SAID LOT 3, AS THE POINT OF BEGINNING, RUN N78°47'48"E., ALONG THE EASTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 20 A DISTANCE OF 15.00 FEET; THENCE N.11°13'33"W., ALONG THE WEST LINE OF SAID LOT 19, A DISTANCE OF 358.60 FEET; THENCE N.78°46'27"E., ALONG THE NORTH LINE OF SAID LOT 19, A DISTANCE OF 1126.14 FEET; THENCE S.11°14'14"E., ALONG THE EAST LINE OF SAID LOTS 19, 22, 23 AND 26, A DISTANCE OF 1477.64 FEET; THENCE DEPARTING SAID EAST LINE, RUN S.25°12'07"W., A DISTANCE OF 77.50 FEET; THENCE S.78°46'27"W., ALONG THE SOUTH LINE OF SAID LOT 26 AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 1095.41 FEET; THENCE S.78°47'48"W., A DISTANCE OF 289.01 FEET; THENCE S.11°13'33"E., A DISTANCE OF 385.00 FEET; THENCE S.78°47'48"W., A DISTANCE OF 363.45 FEET; THENCE N.52°08'52"W., ALONG THE NORTHERLY LINE OF THE FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL, AS DESCRIBED IN OFFICIAL RECORDS BOOK 5838, PAGE 9491, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 1529.10 FEET; THENCE DEPARTING SAID NORTHERLY LINE, RUN N.78°47'48"E., A DISTANCE OF 787.03 FEET; THENCE N.11°13'33"W., A DISTANCE OF 411.40 FEET; THENCE N.78°47'48"E., ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 7.50 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN N.11°13'33"W., A DISTANCE OF 358.60 FEET; THENCE N.78°47'48"E., ALONG THE NORTH LINE OF SAID LOT 20, A DISTANCE OF 281.51 FEET; THENCE DEPARTING SAID NORTH LINE, RUN S.11°13'33"E., A DISTANCE OF 358.60 FEET; THENCE N.78°47'48"E., ALONG THE SOUTH LINE OF SAID LOT 20, AND THE EASTERLY EXTENSION THEREOF, A DISTANCE OF 578.02 FEET TO THE POINT OF BEGINNING.

CONTAINING 78.723 ACRES, MORE OR LESS.

PARCEL D

A PART OF LOT 3, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND A PART OF SECTIONS 8, 9, 16 AND 17, TOWNSHIP 20 SOUTH, RANGE 34 EAST, BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE SOUTHERLY LINE OF THE FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL, AS RECORDED IN OFFICIAL RECORDS BOOK 5838, PAGE 9491, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WITH THE WEST LINE OF SAID LOT 3, RUN S.52°08'52"E., ALONG THE SOUTHERLY LINE OF SAID FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL, A DISTANCE OF 1579.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.52°08'52"E., ALONG SAID SOUTHERLY LINE, A DISTANCE OF 366.06 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 3167.00 FEET, A CENTRAL ANGLE OF 00°25'41", A CHORD BEARING OF S.54°28'55"W., AND A CHORD DISTANCE OF 23.67 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.67 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 3390.00 FEET, A CENTRAL ANGLE OF 62°37'47", A CHORD BEARING OF S.85°34'58"W., AND A CHORD DISTANCE OF 3523.84 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 3705.59 FEET; THENCE RUN ALONG THE BOUNDARY OF A CONSERVATION EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 6860, PAGE 367, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, THE FOLLOWING COURSES AND DISTANCES: S.23°33'10"E., A DISTANCE OF 679.31 FEET; THENCE S.10°08'04"E., A DISTANCE OF 946.53 FEET; THENCE S.32°01'50"E., A DISTANCE OF 418.70 FEET; THENCE S.38°14'51"E., A DISTANCE OF 1042.15 FEET; THENCE S.08°37'26"E., A DISTANCE OF 370.23 FEET; THENCE S.14°02'58"W., A DISTANCE OF 411.64 FEET; THENCE S.59°49'58"W., A DISTANCE OF 706.34 FEET; THENCE S.70°39'31"W., A DISTANCE OF 1306.18 FEET; THENCE S.65°00'16"W., A DISTANCE OF 484.12 FEET; THENCE DEPARTING THE BOUNDARY OF SAID CONSERVATION EASEMENT, RUN N.11°52'27"W., A DISTANCE OF 2162.75 FEET; THENCE N.23°41'36"W., A DISTANCE OF 1600.68 FEET; THENCE N.90°00'00"W., A DISTANCE OF 2421.96 FEET; THENCE N.17°09'26"W., A DISTANCE OF 993.42 FEET; THENCE N.87°31'53"W., A DISTANCE OF 876.60 FEET; THENCE N.27°42'11"W., A DISTANCE OF 1272.69 FEET; THENCE RUN ALONG THE BOUNDARY OF SAID CONSERVATION EASEMENT THE FOLLOWING COURSES AND DISTANCES: N.22°48'09"E., A DISTANCE OF 285.38 FEET; THENCE N.15°41'39"W., A DISTANCE OF 1313.50 FEET; THENCE N.39°35'14"W., A DISTANCE OF 331.05 FEET; THENCE N.26°52'00"W., A DISTANCE OF 320.02 FEET; THENCE N.12°32'26"W., A DISTANCE OF 774.08 FEET; THENCE DEPARTING THE BOUNDARY OF SAID CONSERVATION EASEMENT, RUN N.89°14'10"E., A DISTANCE OF 4610.05 FEET; THENCE RUN ALONG THE BOUNDARY OF SAID CONSERVATION EASEMENT THE FOLLOWING COURSES AND DISTANCES: S.25°47'29"E., A DISTANCE OF 279.22 FEET; THENCE N.88°34'09"E., A DISTANCE OF 444.27 FEET; THENCE S.26°35'15"E., A DISTANCE OF 769.05 FEET; THENCE S.45°45'12"E., A DISTANCE OF 620.00 FEET; THENCE S.08°48'21"E., A DISTANCE OF 942.87 FEET; THENCE S.34°45'22"E., A DISTANCE OF 198.86 FEET; THENCE S.65°40'48"E., A DISTANCE OF 511.75 FEET; THENCE S.14°09'33"E., A DISTANCE OF 985.76 FEET; THENCE DEPARTING THE BOUNDARY OF SAID CONSERVATION EASEMENT, RUN S.60°12'19"E., A DISTANCE OF 178.01 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 3040.00 FEET, A CENTRAL ANGLE OF 64°01'22", A CHORD BEARING OF N.87°47'00"E., AND A CHORD DISTANCE OF 3222.94 FEET; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 3396.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 817.290 ACRES, MORE OR LESS.

NOTICE OF ORDINANCE TO ESTABLISH A COMMUNITY DEVELOPMENT DISTRICT

The Brevard County Board of County Commissioners proposes to adopt the following ordinance for the property generally depicted on the map shown below, as follows:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED IN EXHIBIT A TO THIS ORDINANCE COMPRISING APPROXIMATELY 891.784 +/- ACRES, LOCATED WEST OF I-95 AT DEERING PARKWAY (I.k.a. STUCKWAY ROAD); NAMING THE INITIAL BOARD MEMBERS; ESTABLISHING THE NAME OF THE DISTRICT AS FARMTON-BREVARD COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.

The Brevard County Board of County Commissioners will hold a public hearing on Tuesday, December 1, 2015, beginning at 9:00 a.m. or soon thereafter, in the Commission Chambers on the first floor of Building C, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida. A copy of the ordinance can be reviewed at the Brevard County Planning and Development Department at the address shown below.

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purposes, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.

The needs of the hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

Per: Robin M. Sobrino, AICP, Director, Planning and Development Dept.
Brevard County Government Center
2725 Judge Fran Jamieson Way
Viera, FL 32940
(321)833-2070

Legend
Farmton CDD Area
Farmton Mixed Use Area
BREVARD COUNTY
Farmton CDD Area 15PZ00054



NOTICE OF ORDINANCE TO ESTABLISH A COMMUNITY DEVELOPMENT DISTRICT

The Brevard County Board of County Commissioners proposes to adopt the following ordinance for the property generally depicted on the map shown below, as follows:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED IN EXHIBIT A TO THIS ORDINANCE COMPRISING APPROXIMATELY 991.784 +/- ACRES, LOCATED WEST OF I-95 AT DEERING PARKWAY (I.K.A. STUCKWAY ROAD); NAMING THE INITIAL BOARD MEMBERS; ESTABLISHING THE NAME OF THE DISTRICT AS FARMTON-BREVARD COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.

The Brevard County Board of County Commissioners will hold a public hearing on Tuesday, December 1, 2015, beginning at 9:00 a.m. or soon thereafter, in the Commission Chambers on the first floor of Building C, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida. A copy of the ordinance can be reviewed at the Brevard County Planning and Development Department at the address shown below.

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purposes, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

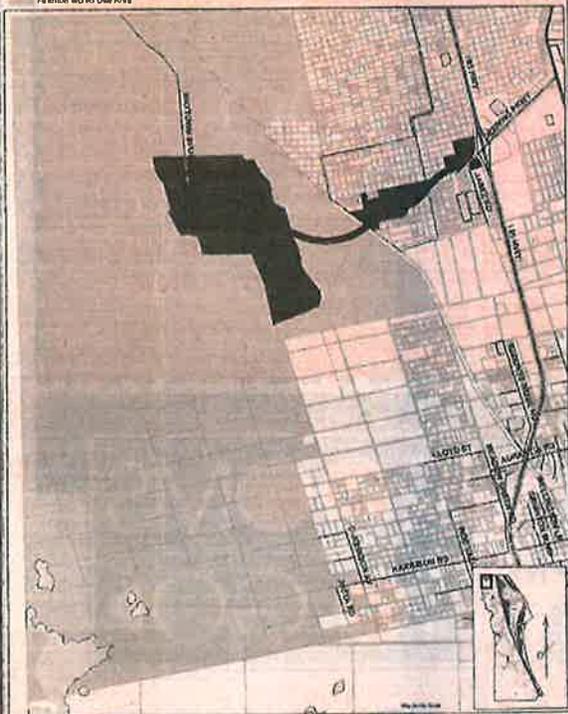
Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.

The needs of the hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

Per: Robin M. Sobrino, AICP, Director, Planning and Development Dept.
Brevard County Government Center
2725 Judge Fran Jamieson Way
Viera, FL 32940
(321)633-2070

Legend
Farmton CDD Area
Farmton MCD Use Area

BREVARD COUNTY
Farmton CDD Area 15P200084



NOTICE OF ORDINANCE TO ESTABLISH A COMMUNITY DEVELOPMENT DISTRICT

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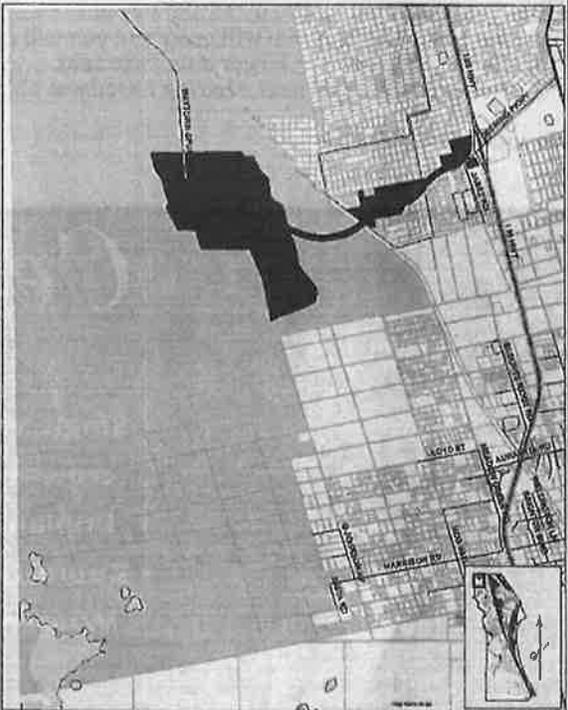
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Per: Robin M. Sobrino, AICP, Director, Planning and Development Dept.
Brevard County Government Center
2725 Judge Fran Jamieson Way
Viera, FL 32940
(321)633-2070

Legend
Farmton CDD Area
Farmton Mixed Use Area

BREVARD COUNTY
Farmton CDD Area 15PZ00084



NOTICE OF ORDINANCE TO ESTABLISH A COMMUNITY DEVELOPMENT DISTRICT

The Brevard County Board of County Commissioners proposes to adopt the following ordinance for the property generally depicted on the map shown below, as follows:

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The needs of the hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

Per: Robin M. Sobrino, AICP, Director, Planning and Development Dept.
Brevard County Government Center
2725 Judge Fran Jamieson Way
Viera, FL 32940
(321)633-2070

Legend
Farmlands CDD Area
Farmlands Mixed Use Area

BREVARD COUNTY
Farmlands CDD Area 15P200084



PT-0000044480



Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of County Commissioners
THRU: Stockton Whitten
County Manager
FROM: Robin M. Sobrino, AICP *RMS*
Director, Planning & Development Department
DATE: December 1, 2015
SUBJECT: Staff Review of the Request to Establish the Farmton – Brevard CDD

The request to establish the Farmton – Brevard Community Development District (CDD) was circulated for review by the Public Works Department and Utility Services Department. The application appears to contain all the information required by Chapter 190.005, FS. This section of the Statutes also provides that the Board of County Commissioners shall consider the record of the public hearing and the following factors in making its determination to grant or deny this request.

1. Whether all statements within the petition have been found to be true and correct.
Staff Comment: The petition initially included parcels of land not under the owner's control. An amended legal description and sketch of description have been submitted, reducing the acreage from 990.077 acres, as stated in the petition, to 982.817 acres. Should the Board find it appropriate to approve this request, the approval should be based upon the amended legal description.
2. Whether the creation of the district is inconsistent with any applicable element or portion of the Brevard County's Comprehensive Plan.
Staff Comment: The proposed Farmton – Brevard CDD does not appear to be inconsistent with any portion of the Brevard County Comprehensive Plan. The proposed CDD is part of the Farmton Local Plan, which consists of approximately 11,500 acres in northern Brevard County and is addressed in Objective 17 and accompanying policies of the Future Land Use Element.
3. Whether the land area within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
Staff Comment: The proposed CDD includes a Mixed Use Area described in the Farmton Local Plan that will provide for residential and non residential uses on a maximum of 1,500 acres. The residential component will not exceed 2,306 dwelling units. The maximum non-residential square footage of the Farmton Local Plan will not exceed 1.25 million square feet, exclusive of public institutional uses. The Mixed Use Area will encourage compact development of residential, employment and recreational opportunities.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

Staff Comment: Currently, there is no County infrastructure in this area of northwest Brevard County to provide urban services. As an alternative to the CDD, the developer could develop the necessary infrastructure, with maintenance performed by homeowners' or property owners' associations with assessment authority. The Board may wish to ask the petitioner to elaborate upon this consideration.

5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

Staff Comment: Staff review did not find that community development services and facilities would be incompatible with the capacity and uses of existing local or regional community development services and facilities.

6. Whether the area that will be served by the district is amenable to separate special district government.

Staff Comment: The revised legal description only includes property under the ownership of the Petitioner.

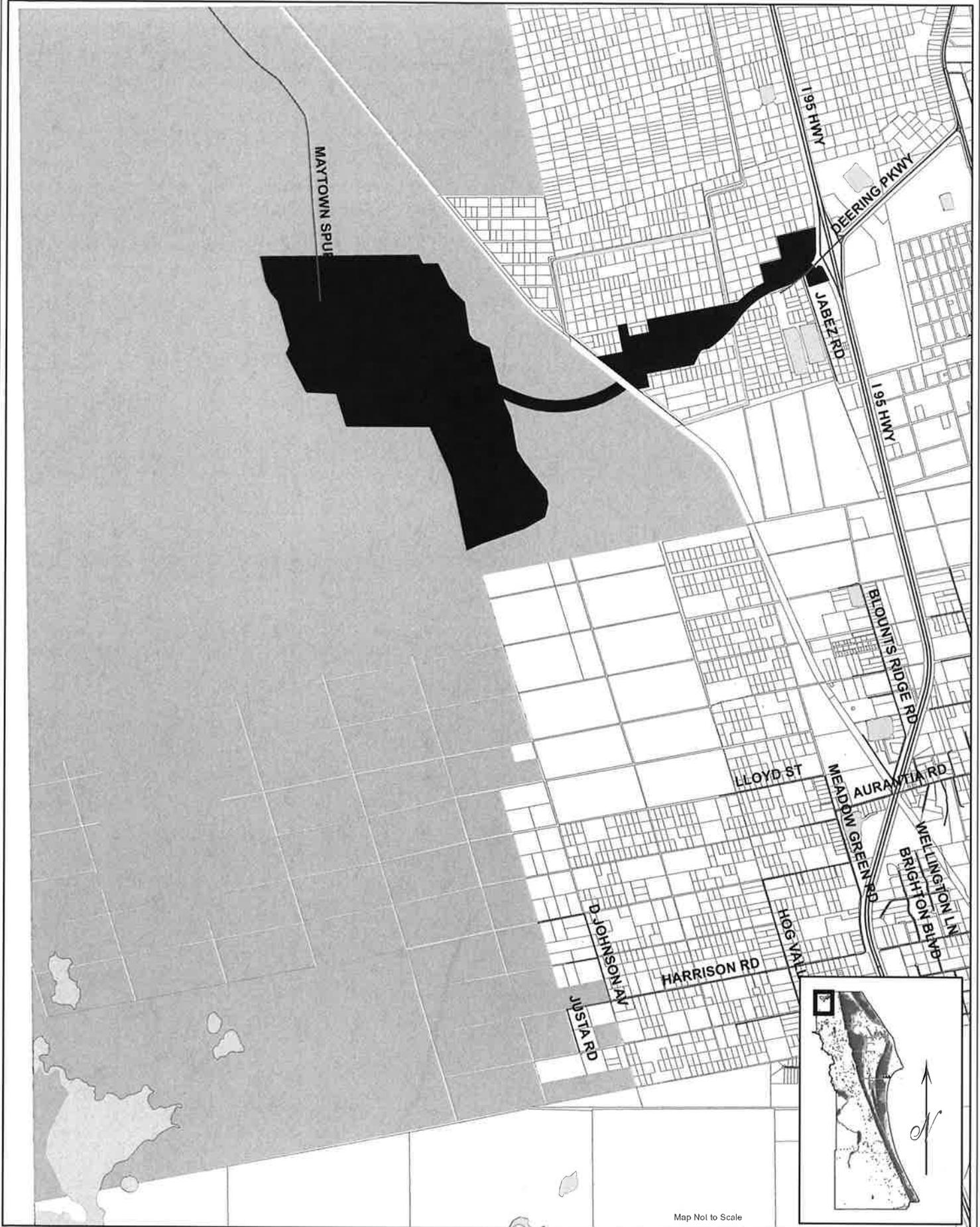
Please feel free to contact me if you have any questions regarding this application.

Legend

-  Farmton CDD Area
-  Farmton Mixed Use Area

BREVARD COUNTY

Farmton CDD Area 15PZ00064



PETITION BY
SWALLOWTAIL, LLC
TO
THE BREVARD COUNTY COMMISSION OF THE COUNTY OF BREVARD, FLORIDA

REQUESTING THE ESTABLISHMENT OF THE
FARMTON-BREVARD COMMUNITY DEVELOPMENT DISTRICT

SWALLOWTAIL, LLC (the "Petitioner") hereby petitions the County Commission of the County of Brevard, Florida (the "County"), pursuant to the "Uniform Community Development District Act of 1980," Chapter 190, Florida Statutes, to adopt an ordinance establishing the Farmton-Brevard Community Development District (hereinafter "CDD" or "District") with respect to land described herein. In support thereof, the Petitioner submits:

1. Petitioner. Swallowtail, LLC has its principal place of business at 410 N. Michigan Avenue, Room 590, Chicago, IL 60611.

2. Location and Size. The property to be included within the District is located entirely within the unincorporated limits of the County of Brevard, Florida and is depicted on the sketch attached to and incorporated with this Petition as **Exhibit 1**. The site is generally located west of the interchange of Deering Parkway and Interstate 95. The proposed District covers approximately 990.077 +/- acres of land. The metes and bounds description of the external boundaries of the District is included with this Petition as **Exhibit 2**. There is approximately 1.31 +/- acres of land within the proposed external boundaries of the District that is excluded from the District. Petitioner and the owner of said 1.31 +/- acres of land have entered into a contract to purchase. Petitioner anticipates including said property in the Farmton-Brevard Community Development District once fee simple ownership vests with the Petitioner.

3. Landowner Consent. Petitioner has obtained written consent to establish the District from the owner of one hundred percent (100%) of the real property located within the District. The written consent is attached to and incorporated with this Petition as **Exhibit 3**.

4. Name. The name of the proposed District will be Farmton-Brevard Community Development District.

5. Initial Board Members. The names and addresses of those designated to be the five (5) initial members of the Board of Supervisors of the District, all of whom are residents of the State of Florida and citizens of the United States, are as follows:

- i. Name: Glenn D. Storch
Address: 420 S. Nova Road, Daytona Beach, FL 32114
Relationship to Petitioner: Attorney

- ii. Name: Michael A. Brown
Address: 3450 Old Dawson Ranch, Edgewater, FL 32141
Relationship to Petitioner: Consultant
- iii. Name: Mark Dowst
Address: 536 N. Halifax Avenue, Daytona Beach, FL 32118
Relationship to Petitioner: Consultant
- iv. Name: Catherine Storch
Address: 420 S. Nova Road, Daytona Beach, FL 32114
Relationship to Petitioner: Consultant
- v. Name: Sans Lassiter
Address: 123 Live Oak Avenue, Daytona Beach, FL 32114
Relationship to Petitioner: Consultant

6. Major Water and Wastewater Facilities. A map of the lands within the proposed District showing the existing major trunk water mains, sewer interceptors and the major outfall canals and drainage basins is attached to and incorporated with this Petition as **Exhibit 4**.

7. District Facilities and Services. The District presently expects to finance, construct, install, and maintain improvements of the District's facilities to benefit the lands with the District. Attached to and incorporated with the Petition, **Exhibit 5** describes the type of facilities and the estimated costs associated with Phase 1. This is a good faith estimate. Actual construction timetables and expenditures may vary, due in part to the effects of future changes in the economic conditions upon costs such as labor, services, materials, interest rates and market conditions.

8. Existing Zoning and Future Land Use. The existing zoning for lands within the proposed District is attached to and incorporated with this Petition as **Exhibit 6**. The proposed future general distribution, location, and extent of the public and private land uses within and surrounding the District, as designated on the current County of Brevard Future Land Use Map is also attached hereto and incorporated with this Petition as **Exhibit 7**.

9. Statement of Estimated Regulatory Costs. A Statement of Estimated Regulatory Costs (hereinafter "SERC") prepared in accordance with the requirements of Section 120.541, Florida Statutes, is attached to and incorporated with this Petition as **Exhibit 8**.

10. Authorized Agent. The Petitioner is authorized to do business in Florida. The authorized agent for the Petitioner is Glenn D. Storch, whose address is 420 S. Nova Road, Daytona Beach, FL 32114. A signed Authorization of Agent is attached as **Exhibit 9** and copies of all correspondence and official notices should be sent to the address of the Authorized Agent.

11. Powers Requested. The District is seeking and hereby requests the right to exercise all powers provided for in Section 190.011, Florida Statutes, including the power of eminent domain as outlined in Section 190.011(11), Florida Statutes, and all special powers outlined in Section 190.012, Florida Statutes. The full text of the powers requested herein is set forth in **Attachment No. 1** attached hereto.

12. Justification Statement. The property within the District is amenable to operating as an independent special district for the following reasons:

a. All statements contained in this Petition are true and correct.

b. The District and all land uses and services planned therein are not inconsistent with applicable elements or portions of the effective County of Brevard Comprehensive Land Use Plan, as amended, or any applicable element of the state comprehensive plan.

c. The area of land within the proposed District is part of a unified plan of development known as "Farnton." The land to be included in the District is of sufficient size and is sufficiently compact and contiguous to be developed as one functional and interrelated development.

d. The proposed District will be the best alternative available for delivering community development services to the area to be served because (i) the District provides a mechanism for delivering those services and facilities in a manner that does not financially impact persons residing outside of the District and (ii) the District provides a responsible perpetual entity capable of making reasonable provisions for the operation and maintenance of the District services and facilities in the future.

e. The District's community development services and facilities will be compatible with the capacity and use of existing local and regional community development services and facilities, as is evidenced by the County of Brevard Comprehensive Plan, will allow for a more efficient use of resources, and will provide a perpetual entity capable of making provisions for the operation and maintenance of the District services and facilities.

f. For the foregoing reasons, the area to be served by the proposed District is amenable to separate special district government.

WHEREFORE, Petitioner respectfully requests the County Commission of the County of Brevard to:

1. Direct that a local public hearing be held as required by Section 190.005(2)(b), Florida Statutes; to consider the establishment of the Farmton-Brevard Community Development District; and
2. Grant the Petition for Establishment and adopt an Ordinance pursuant to Chapter 190, Florida Statutes; establishing the Farmton-Brevard Community Development District; and
3. Consent to the District's exercise of its statutory powers requested herein, as those powers are set forth in Chapter 190, Florida Statutes.

RESPECTFULLY SUBMITTED, this 8 day of May, 2015.

COBBCOLE

By: 

Mark A. Watts

Florida Bar No. 0157521

351 East New York Avenue; Suite 200

DeLand, FL 32724

(386) 736-7700

Mark.Watts@cobbcole.com

Attorney for Petitioner

Exhibit 1
Survey

Exhibit 2
Metes and Bounds Legal Description

Exhibit 3
Written Consent of 100% of Landowners

Exhibit 4
Existing Water Mains, Sewer Interceptors, and Outfalls

Exhibit 5
Estimated Cost of Constructing Proposed Services

Exhibit 6
Zoning Map

Exhibit 7
Future Land Use Map

Exhibit 8
Statement of Estimated Regulatory Costs

Exhibit 9
Authorization of Owner

Attachment No. 1
Florida Statutes Section 190.011 and 190.012

Exhibit 1

Survey

Exhibit 2
Metes and Bounds Legal Description

PARCEL A

A PART OF LOT 6, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND A PART OF LOTS 20, 21, 24 AND 25, LOT 4, WISCONSIN FLORIDA FRUIT LAND COMPANY, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 43, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE NORTH LINE OF SAID LOT 6, WITH THE CENTERLINE OF INTERSTATE NO. 95 (STATE ROAD NO. 9), A VARIABLE WIDTH RIGHT OF WAY, ALSO KNOWN AS STATION 3685+65.72, BASED ON STATE ROAD DEPARTMENT RIGHT OF WAY MAP, SECTION 70220-2409, SHEET 5 OF 6, DATED 1964, AND UNRECORDED MAPS OF CAPE ATLANTIC ESTATES, RUN S.13°57'49"E., ALONG SAID CENTERLINE, A DISTANCE OF 2248.71 FEET; THENCE DEPARTING SAID CENTERLINE, RUN S.76°02'11"W., A DISTANCE OF 272.28 FEET TO THE WEST RIGHT OF WAY LINE OF SAID INTERSTATE NO. 95, AND THE POINT OF BEGINNING; THENCE S.00°56'45"E., ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 774.37 FEET; THENCE S.20°13'31"W., ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 223.71 FEET; THENCE S.46°46'41"W., ALONG SAID WEST RIGHT OF WAY LINE, AND THE NORTH RIGHT OF WAY LINE OF STUCKWAY ROAD AS RECORDED IN ROAD PLAT BOOK 1, PAGE 2, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 591.83 FEET; THENCE S.43°14'51"E., ALONG THE RIGHT OF WAY LINE OF SAID STUCKWAY ROAD, A DISTANCE OF 100.11 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN S.46°46'11"W., A DISTANCE OF 225.78 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 4075.00 FEET, A CENTRAL ANGLE OF 07°32'43", A CHORD BEARING OF S.67°23'35"W., AND A CHORD DISTANCE OF 536.24 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 536.63 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2552.00 FEET, A CENTRAL ANGLE OF 35°30'01", A CHORD BEARING OF S.53°24'56"W., AND A CHORD DISTANCE OF 1556.03 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1581.21 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 3731.00 FEET, A CENTRAL ANGLE OF 17°34'22", A CHORD BEARING OF S.44°27'06"W., AND A CHORD DISTANCE OF 1139.83 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1144.31 FEET; THENCE S.78°46'27"W., A DISTANCE OF 182.60 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 3656.00 FEET, A CENTRAL ANGLE OF 00°48'39", A CHORD BEARING OF S.56°13'36"W., AND A CHORD DISTANCE OF 51.73 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 51.73 FEET; THENCE S.25°12'07"W., A DISTANCE OF 325.83 FEET; THENCE N.11°14'14"W., ALONG THE WEST LINE OF SAID LOTS 20, 21, 24 AND 25, A DISTANCE OF 1437.00 FEET; THENCE N.78°46'27"E., ALONG THE NORTH LINE OF SAID LOT 20, AND THE EASTERLY EXTENSION THEREOF, A DISTANCE OF 1576.75 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2827.00 FEET, A CENTRAL ANGLE OF 18°15'36", A CHORD BEARING OF N.55°04'18"E., AND A CHORD DISTANCE OF 897.15 FEET; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 900.96 FEET; THENCE N.13°57'49"W., A DISTANCE OF 622.94 FEET; THENCE N.76°02'11"E., A DISTANCE OF 660.00 FEET; THENCE N.13°57'49"W., A DISTANCE OF 660.00 FEET; THENCE N.76°02'11"E., A DISTANCE OF 1197.71 FEET TO THE POINT OF BEGINNING.

CONTAINING 80.806 ACRES, MORE OR LESS.

PARCEL B

A PART OF LOT 6, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SAID LOT 6, RUN S.72°42'53"W., ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 1873.79 FEET TO THE WEST RIGHT OF WAY LINE OF INTERSTATE NO. 95 (STATE ROAD NO. 9), A VARIABLE WIDTH RIGHT OF WAY; THENCE RUN ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING COURSES AND DISTANCES: N.13°57'49"W., A DISTANCE OF 2283.84 FEET; THENCE N.18°32'15"W., A DISTANCE OF 501.86 FEET; THENCE N.27°55'01"W., A DISTANCE OF 235.55 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.27°55'01"W., A DISTANCE OF 470.63 FEET; THENCE N.80°07'53"W., A DISTANCE OF 125.07 FEET; THENCE RUN ALONG SAID WEST RIGHT OF WAY LINE, AND THE RIGHT OF WAY LINES OF STUCKWAY ROAD, A 200 FOOT RIGHT OF WAY, AND JABEZ ROAD, AN 80 FOOT RIGHT OF WAY, AS RECORDED IN ROAD PLAT BOOK 1, PAGE 2, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, THE FOLLOWING COURSES AND DISTANCES: S.46°46'41"W., A DISTANCE OF 503.08 FEET; THENCE S.17°45'44"E., A DISTANCE OF 280.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF S.62°45'44"E., AND A CHORD DISTANCE OF 35.36; THENCE DEPARTING THE RIGHT OF WAY LINE OF SAID JABEZ ROAD, RUN EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 39.27 FEET; THENCE N.72°14'16"E., A DISTANCE OF 623.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.998 ACRES, MORE OR LESS.

PARCEL C

A PART OF LOTS 3 AND 4, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A PART OF LOT 20, LOT 3, AND A PART OF LOTS 19, 22, 23 AND 26, LOT 4, WISCONSIN FLORIDA FRUIT LAND COMPANY, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 43, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE EASTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 20, WITH THE EAST LINE OF SAID LOT 3, AS THE POINT OF BEGINNING, RUN N78°47'48"E., ALONG THE EASTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 20 A DISTANCE OF 15.00 FEET; THENCE N.11°13'33"W., ALONG THE WEST LINE OF SAID LOT 19, A DISTANCE OF 358.60 FEET; THENCE N.78°46'27"E., ALONG THE NORTH LINE OF SAID LOT 19, A DISTANCE OF 1126.14 FEET; THENCE S.11°14'14"E., ALONG THE EAST LINE OF SAID LOTS 19, 22, 23 AND 26, A DISTANCE OF 1477.64 FEET; THENCE DEPARTING SAID EAST LINE, RUN S.25°12'07"W., A DISTANCE OF 77.50 FEET; THENCE S.78°46'27"W., ALONG THE SOUTH LINE OF SAID LOT 26 AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 1095.41 FEET; THENCE S.78°47'48"W., A DISTANCE OF 289.01 FEET; THENCE S.11°13'33"E., A DISTANCE OF 385.00 FEET; THENCE S.78°47'48"W., A DISTANCE OF 363.45 FEET; THENCE N.52°08'52"W., ALONG THE NORTHERLY LINE OF THE FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL, AS DESCRIBED IN OFFICIAL RECORDS BOOK 5838, PAGE 9491, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 1529.10 FEET; THENCE DEPARTING SAID NORTHERLY LINE, RUN N.78°47'48"E., A DISTANCE OF 787.03 FEET; THENCE N.11°13'33"W., A DISTANCE OF 411.40 FEET; THENCE N.78°47'48"E., ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 7.50 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN N.11°13'33"W., A DISTANCE OF 358.60 FEET; THENCE N.78°47'48"E., ALONG THE NORTH LINE OF SAID LOT 20, A DISTANCE OF 281.51 FEET; THENCE DEPARTING SAID NORTH LINE, RUN S.11°13'33"E., A DISTANCE OF 358.60 FEET; THENCE N.78°47'48"E., ALONG THE SOUTH LINE OF SAID LOT 20, AND THE EASTERLY EXTENSION THEREOF, A DISTANCE OF 578.02 FEET TO THE POINT OF BEGINNING.

CONTAINING 78.723 ACRES, MORE OR LESS.

PARCEL D

A PART OF LOT 3, PABLO FONTAINE GRANT, AS RECORDED IN DEED BOOK D, PAGE 525, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND A PART OF SECTIONS 8, 9, 16 AND 17, TOWNSHIP 20 SOUTH, RANGE 34 EAST, BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE SOUTHERLY LINE OF THE FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL, AS RECORDED IN OFFICIAL RECORDS BOOK 5838, PAGE 9491, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WITH THE WEST LINE OF SAID LOT 3, RUN S.52°08'52"E., ALONG THE SOUTHERLY LINE OF SAID FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL, A DISTANCE OF 1579.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.52°08'52"E., ALONG SAID SOUTHERLY LINE, A DISTANCE OF 366.06 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 3167.00 FEET, A CENTRAL ANGLE OF 00°25'41", A CHORD BEARING OF S.54°28'55"W., AND A CHORD DISTANCE OF 23.67 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.67 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 3390.00 FEET, A CENTRAL ANGLE OF 62°37'47", A CHORD BEARING OF S.85°34'58"W., AND A CHORD DISTANCE OF 3523.84 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 3705.59 FEET; THENCE RUN ALONG THE BOUNDARY OF A CONSERVATION EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 6860, PAGE 367, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, THE FOLLOWING COURSES AND DISTANCES: S.23°33'10"E., A DISTANCE OF 679.31 FEET; THENCE S.10°08'04"E., A DISTANCE OF 946.53 FEET; THENCE S.32°01'50"E., A DISTANCE OF 418.70 FEET; THENCE S.38°14'51"E., A DISTANCE OF 1042.15 FEET; THENCE S.08°37'26"E., A DISTANCE OF 370.23 FEET; THENCE S.14°02'58"W., A DISTANCE OF 411.64 FEET; THENCE S.59°49'58"W., A DISTANCE OF 706.34 FEET; THENCE S.70°39'31"W., A DISTANCE OF 1306.18 FEET; THENCE S.65°00'16"W., A DISTANCE OF 484.12 FEET; THENCE DEPARTING THE BOUNDARY OF SAID CONSERVATION EASEMENT, RUN N.11°52'27"W., A DISTANCE OF 2162.75 FEET; THENCE N.23°41'36"W., A DISTANCE OF 1600.68 FEET; THENCE N.90°00'00"W., A DISTANCE OF 2421.96 FEET; THENCE N.17°09'26"W., A DISTANCE OF 993.42 FEET; THENCE N.87°31'53"W., A DISTANCE OF 876.60 FEET; THENCE N.27°42'11"W., A DISTANCE OF 1272.69 FEET; THENCE RUN ALONG THE BOUNDARY OF SAID CONSERVATION EASEMENT THE FOLLOWING COURSES AND DISTANCES: N.22°48'09"E., A DISTANCE OF 285.38 FEET; THENCE N.15°41'39"W., A DISTANCE OF 1313.50 FEET; THENCE N.39°35'14"W., A DISTANCE OF 331.05 FEET; THENCE N.26°52'00"W., A DISTANCE OF 320.02 FEET; THENCE N.12°32'26"W., A DISTANCE OF 774.08 FEET; THENCE DEPARTING THE BOUNDARY OF SAID CONSERVATION EASEMENT, RUN N.89°14'10"E., A DISTANCE OF 4610.05 FEET; THENCE RUN ALONG THE BOUNDARY OF SAID CONSERVATION EASEMENT THE FOLLOWING COURSES AND DISTANCES: S.25°47'29"E., A DISTANCE OF 279.22 FEET; THENCE N.88°34'09"E., A DISTANCE OF 444.27 FEET; THENCE S.26°35'15"E., A DISTANCE OF 769.05 FEET; THENCE S.45°45'12"E., A DISTANCE OF 620.00 FEET; THENCE S.08°48'21"E., A DISTANCE OF 942.87 FEET; THENCE S.34°45'22"E., A DISTANCE OF 198.86 FEET; THENCE S.65°40'48"E., A DISTANCE OF 511.75 FEET; THENCE S.14°09'33"E., A DISTANCE OF 985.76 FEET; THENCE DEPARTING THE BOUNDARY OF SAID CONSERVATION EASEMENT, RUN S.60°12'19"E., A DISTANCE OF 178.01 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 3040.00 FEET, A CENTRAL ANGLE OF 64°01'22", A CHORD BEARING OF N.87°47'00"E., AND A CHORD DISTANCE OF 3222.94 FEET; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 3396.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 817.290 ACRES, MORE OR LESS.

Exhibit 3

Written Consent of 100% of Landowners

LANDOWNER CONSENT

The undersigned owns one hundred percent (100%) of the lands that are the subject of the Petition attached hereto and incorporated herein (the "Property")

The undersigned has caused this Petition to be submitted and requests that the County of Brevard consider formation of the Farmton-Brevard Community Development District in accordance with the provisions of Fla. Stat. § 190 and as provided in the forgoing Petition. As the owner of the Property that will comprise the Farmton-Brevard Community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 190.005, Florida Statutes, this written consent is required to authorize formation of the Farmton-Brevard Community Development District.

The undersigned hereby agrees to execute any documentation necessary or convenient to evidence this consent during the County's consideration of the Petition to form the Farmton-Brevard Community Development District.

Executed this 30 day of April, 2015.

SWALLOWTAIL, LLC
A Delaware Limited Liability Company

By: [Signature]
Barbra Goering
Manager of Swallowtail, LLC

**STATE OF ILLINOIS
COUNTY OF COOK**

The foregoing instrument was acknowledged before me this 30th day of April, 2015, by Barbra Goering, as Manager of Swallowtail, LLC. She is personally known to me or has produced _____ as identification and did not take an oath.

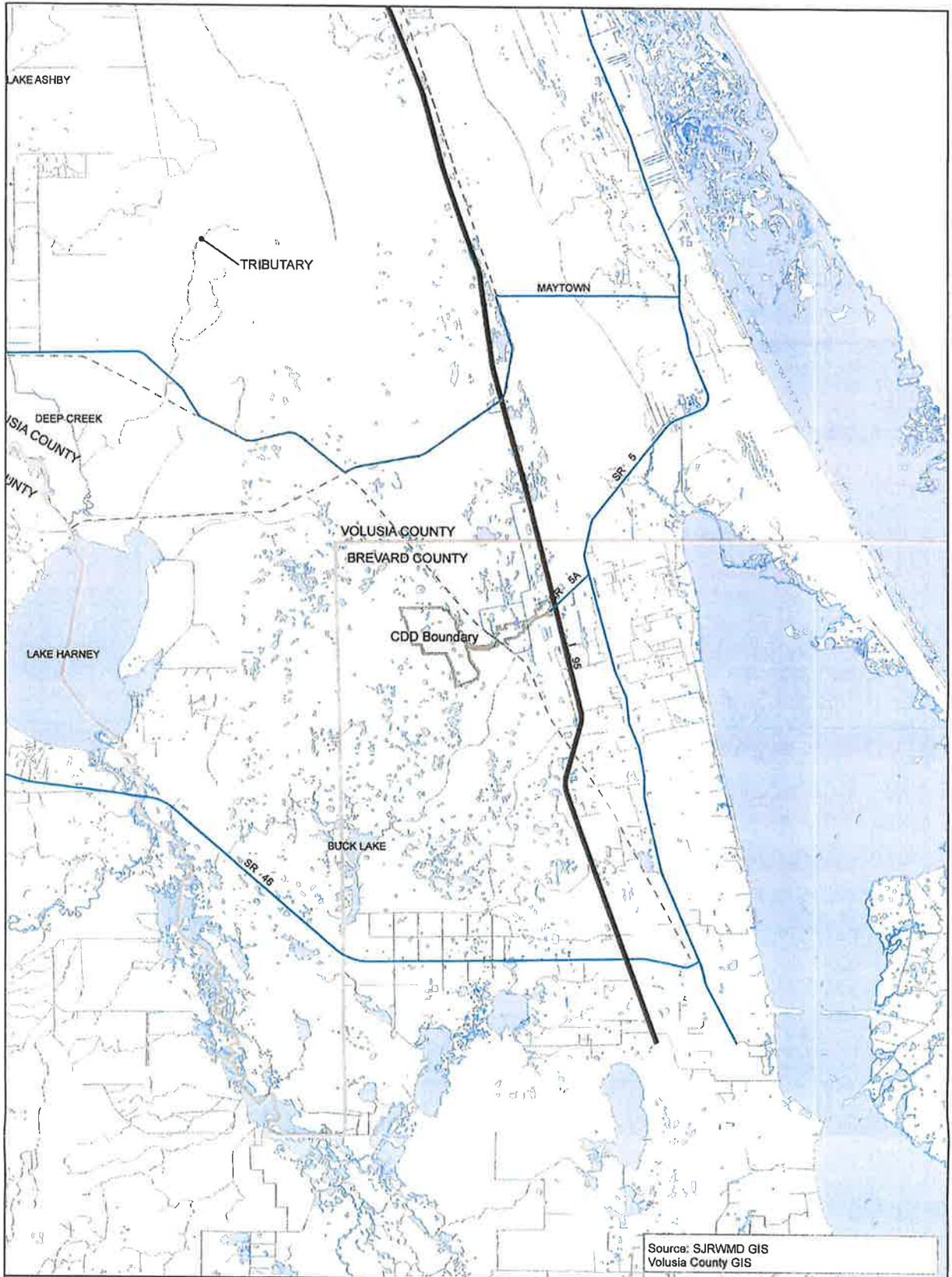
Holly Cruz
Notary Public

Type, Print or Stamp Name
My commission expires: 9-20-2018



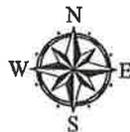
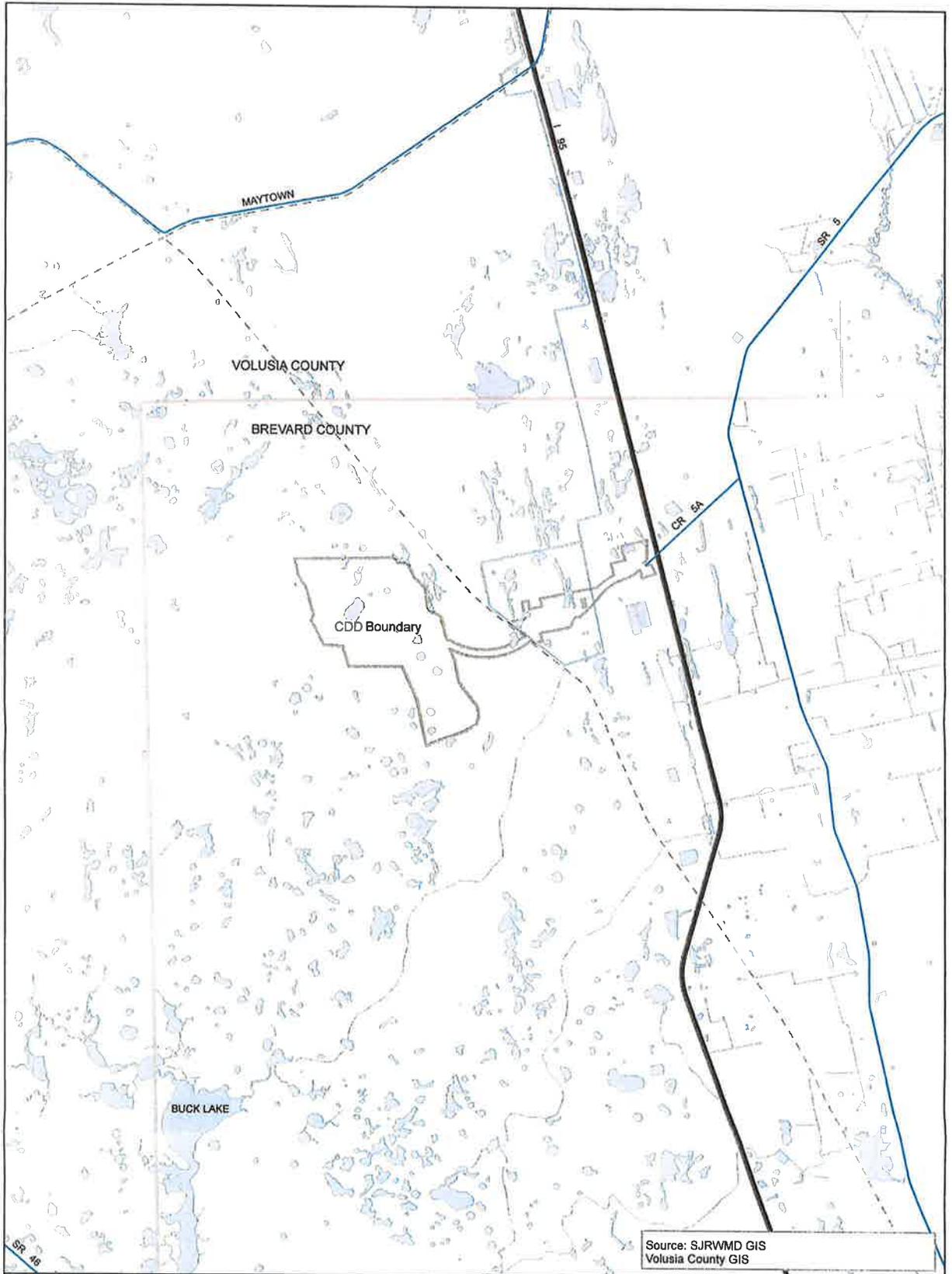
Exhibit 4

Existing Water Mains, Sewer Interceptors, and Outfalls



**Vicinity
Map**

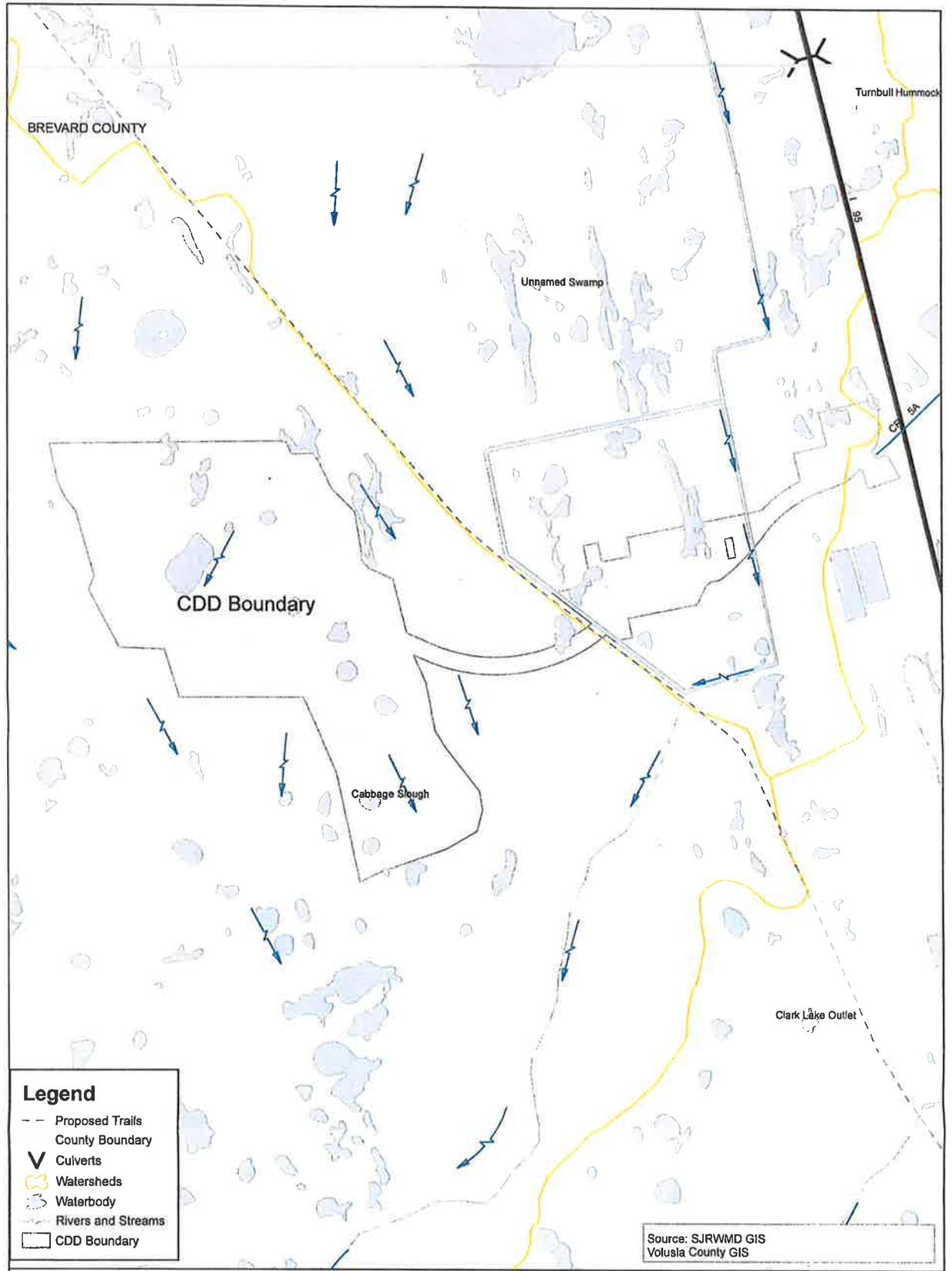




**Vicinity
Map**



MARK DOWST & ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS



**Drainage Basins
Flow Patterns**



Exhibit 5

Estimated Cost of Constructing Proposed Services

District Facilities and Services

<u>Facility</u>	<u>Ownership and Maintenance</u>	<u>Funded By</u>
Earthwork	CDD	CDD
Grading and Paving	CDD	CDD
Stormwater System	CDD	CDD
Sanitary Sewer	UTILITY PROVIDER	CDD
Potable Water	UTILITY PROVIDER	CDD
Reuse System	UTILITY PROVIDER	CDD
SR 5A Median Landscaping	CDD	CDD
Entry Feature Ponds, Landscape and Signage	CDD	CDD
Onsite Roadway Median Landscaping	CDD	CDD
Underground Electric	CDD	CDD
Miscellaneous (i.e., staking, as built surveys, testing)	CDD	CDD
Contingency, Legal, Engineering	CDD	CDD
SR 5A Improvements	CDD	CDD

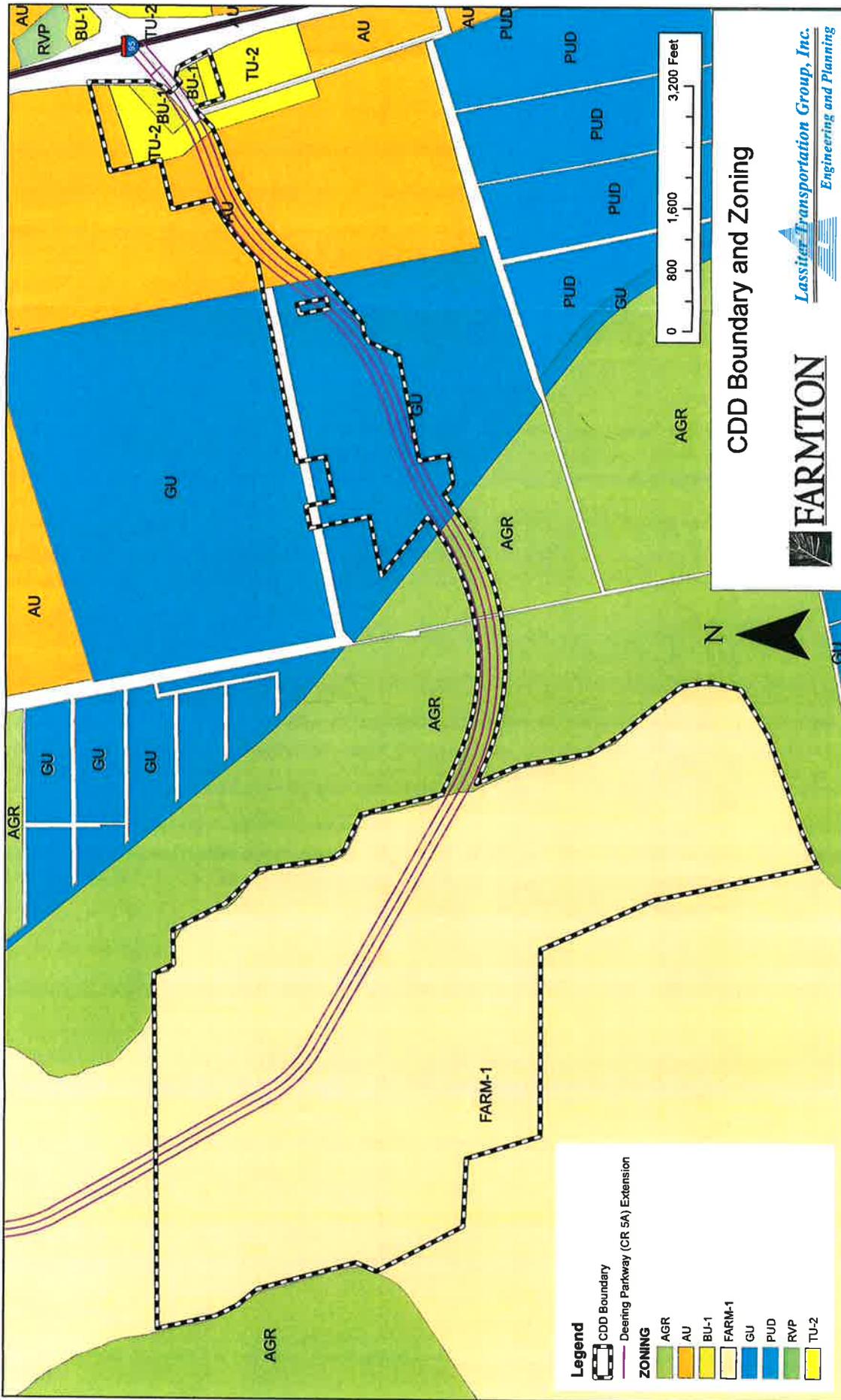
Summary of Estimated Public Infrastructure Costs

Infrastructure Category

Cost Estimate

Earthwork	\$11,842,105.26
Grading and Paving	7,323,157.89
Stormwater System	4,878,947.37
Sanitary Sewer	8,293,578.95
Potable Water	9,422,947.37
Reuse System	1,458,947.37
SR 5A Median Landscaping	150,000.00
Entry Feature Ponds, Landscape and Signage	500,000.00
Onsite Roadway Median Landscaping	775,894.74
Underground Electric	1,657,894.74
Miscellaneous (i.e., staking, as built surveys, testing)	766,421.05
Contingency, Legal, Engineering	15,660,000.00
SR 5A Improvements	<u>19,000,000.00</u>
TOTAL	\$81,729,894.74

Exhibit 6
Zoning Map



Legend

- CDD Boundary
- Deering Parkway (CR 5A) Extension

ZONING

- AGR
- AU
- BU-1
- FARM-1
- GU
- PUD
- RVP
- TU-2

CDD Boundary and Zoning



Lassiter Transportation Group, Inc.
 Engineering and Planning

Exhibit 7
Future Land Use Map

Exhibit 7
Future Land Use Map

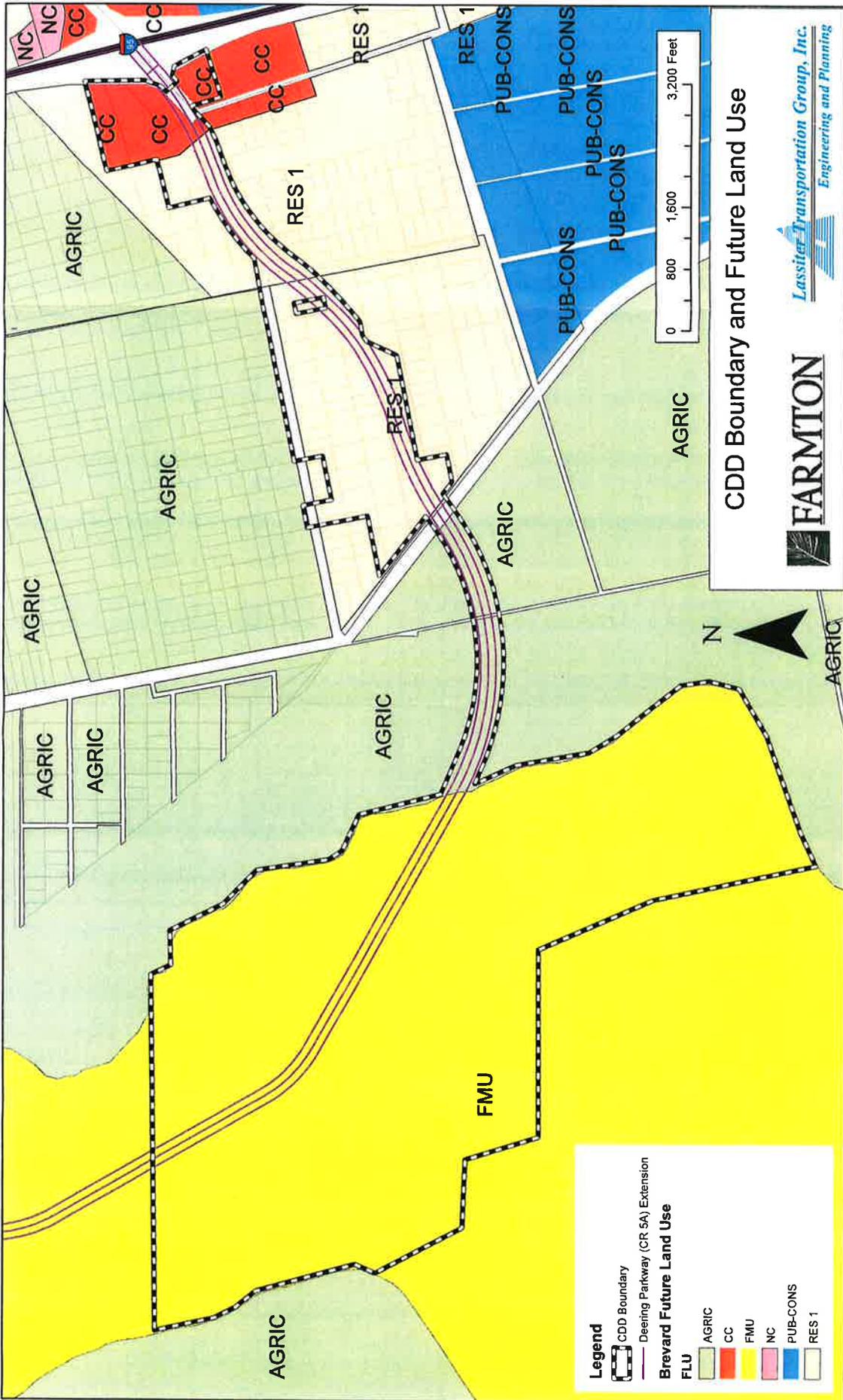


Exhibit 8
Statement of Estimated Regulatory Costs

FARMTON-BREVARD COMMUNITY DEVELOPMENT DISTRICT

Statement of Estimated Regulatory Costs

May 8, 2015



Provided by

Wrathell, Hunt and Associates, LLC

2300 Glades Road, Suite 410W

Boca Raton, FL 33431

Phone: 561-571-0010

Fax: 561-571-0013

Website: www.whassociates.com

STATEMENT OF ESTIMATED REGULATORY COSTS

1.0 Introduction

1.1 Purpose and Scope

This Statement of Estimated Regulatory Costs ("SERC") supports the petition to establish the Farmton-Brevard Community Development District ("District"). The proposed District will comprise approximately 990.077 +/- acres of land located within the unincorporated Brevard County, Florida (the "County") and is projected to contain approximately 2,306 residential dwelling units, 1.15 million square feet of commercial/office/industrial space, a 200-room hotel, and 50,000 square feet of public institutional space. The limitations on the scope of this SERC are explicitly set out in Section 190.002(2)(d), Florida Statutes ("F.S.") (governing District establishment) as follows:

"That the process of establishing such a district pursuant to uniform general law be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant (emphasis added)."

1.2 Overview of the Farmton-Brevard Community Development District

The District is designed to provide public infrastructure, services, and facilities along with operations and maintenance of same to a master planned mixed-use development currently anticipated to contain a total of approximately 2,306 residential dwelling units, 1.15 million square feet of commercial/office/industrial space, a 200-room hotel, and 50,000 square feet of public institutional space, all within the boundaries of the District.

A Community Development District ("CDD") is an independent unit of special purpose local government authorized by Chapter 190, F.S., to plan, finance, construct, operate and maintain community-wide infrastructure in large, planned community developments. CDDs provide a "solution to the state's planning, management and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers." Section 190.002(1)(a), F.S.

A CDD is not a substitute for the local, general purpose government unit, i.e., the City or County in which the CDD lies. A CDD does not have the permitting, zoning or policing powers possessed by general purpose governments. A CDD is an alternative means of financing, construction, operating and maintaining public infrastructure for developments, such as Farmton-Brevard.

1.3 Requirements for Statement of Estimated Regulatory Costs

Section 120.541(2), F.S. (2014), defines the elements a statement of estimated regulatory costs must contain:

- (a) An economic analysis showing whether the rule directly or indirectly:
1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule;
 2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; or
 3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.
- (b) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.
- (c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.
- (d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.
- (e) An analysis of the impact on small businesses as defined by s. 288.703, and an analysis of the impact on small counties and small cities as defined in s. 120.52. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses. (Brevard County with Census 2010 population of 543,376 is not defined as a small County for the purposes of this requirement.)
- (f) Any additional information that the agency determines may be useful.
- (g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

Note: the references to "rule" in the statutory requirements for the Statement of Estimated Regulatory Costs also apply to an "ordinance" under section 190.005(2)(a), F.S.

- 2.0 An economic analysis showing whether the ordinance directly or indirectly:**
- 1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance;**

- 2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance; or**
- 3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.**

The ordinance establishing the District is anticipated to not have any direct or indirect adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation. Any increases in regulatory costs, principally the anticipated increases in transactional costs as a result of imposition of special assessments by the District will be the direct result of facilities and services provided by the District to the landowners within the District, however, as property ownership in the District is voluntary and all additional costs will be disclosed to prospective buyers prior to sale, such increases should be considered voluntary, self-imposed and offset by benefits received from the infrastructure and services provided by the District.

2.1 Impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.

The sole reason for the establishment of the District is to provide public facilities and services to support the development of a new, master planned mixed-use development. The development of the approximately 990.077 +/- acre parcel will promote local economic activity, create local value, lead to local private sector investment and is likely, at least in the short term, to support local private sector employment and/or lead to local new job creation.

Establishment of the District will allow it to plan, fund, implement, operate and maintain, for the benefit of the landowners within the District, various public facilities and services. Such facilities and services, as further described in Section 5, will allow for the development of the land within the District for private use. The provision of District's infrastructure and the subsequent development of the private land will generate private economic activity, private economic growth, private investment and employment, and job creation. The District will use proceeds of indebtedness to fund construction of public infrastructure, which will be constructed by private firms, and once constructed, will use private firms to operate and maintain such infrastructure/provide services to the landowners and residents of the District. The private developer of the land in the District will use its private funds to conduct the private land development and construction of an anticipated approximately 2,306 residential dwelling units, 1.15 million square feet of commercial/office/industrial space, a 200-room hotel, and 50,000 square feet of public institutional space, the construction, sale, and continued use/maintenance of which will involve private firms. While similar economic growth, private sector job creation or employment, or private sector investment could be achieved in absence of the District by private sector alone, the fact that the establishment of the District is initiated by the private developer means that such the private developer considers the establishment and continued operation of the District as beneficial to the process of land development and the future economic activity taking place within the District, which

in turn will lead directly or indirectly to the economic growth, likely private sector job and/or support private sector employment, and private sector investments.

2.2 Impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.

When assessing the question of whether the establishment of the District is likely to directly or indirectly to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation, one has to compare these factors in the presence and in the absence of the District in the development. When the question is phrased in this manner, it can be surmised that the establishment of the District is likely to not have a direct or indirect adverse impact on business competitiveness, productivity, or innovation versus that same development without the District. Similarly to a purely private solution, District contracts will be bid competitively as to achieve the lowest cost/best value for the particular infrastructure or services desired by the landowners under a "lowest responsive/responsible bid" method, which will insure that contractors wishing to bid for such contracts will have to demonstrate to the District the most optimal mix of cost, productivity and innovation. Additionally, the establishment of the District for the development is not likely to cause the award of the contracts to favor non-local providers any more than if there was no District. The District in its purchasing decisions will not vary from the same principles of cost, productivity and innovation that guide private enterprise.

2.3 Likelihood of an increase in regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.

The establishment of the District will not increase any regulatory costs of the State or the County by virtue that the District will be one of many already existing similar districts within the State and also one of a few already existing similar districts in the County. As described in more detail in Section 4, the proposed District will pay a one-time filing fee to the County to offset any expenses that the County may incur in the processing of this petition. Similarly, the proposed District will pay annually the required Special District Filing Fee, which fee is meant to offset any State costs related to its oversight of all special districts in the State.

The establishment of the District will, however, directly increase regulatory costs to the landowners within the District. Such increases in regulatory costs, principally the anticipated increases in transactional costs as a result of likely imposition of special assessments and use fees by the District will be the direct result of facilities and services provided by the District to the landowners within the District. However, as property ownership in the District is completely voluntary, all current property owners must consent to the establishment of the District and the likelihood of additional transaction costs, and all initial prospective buyers must have such additional transaction costs disclosed to them prior to sale, as required by State law and County ordinance establishing the District, such increases should be considered voluntary, self-imposed, and as a tradeoff for the

services and facilities provided by the District. As to the anticipated amount of the transactional costs in the aggregate within 5 years, they are anticipated to not exceed \$10,000,000.

3.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the ordinance.

The proposed District will serve land that comprises an approximately 990.077 +/- acre master planned mixed-use development currently anticipated to contain a total of approximately 2,306 residential dwelling units, 1.15 million square feet of commercial/office/industrial space, a 200-room hotel, and 50,000 square feet of public institutional space, although the development plan can change. Assuming an average density of 2.5 persons per residential dwelling unit, the estimated residential population of the proposed District at build out will be approximately 5,765 +/- and all of these residents as well as the landowners within the District (which may be estimated at most likely not exceeding 50 at the upper most limit) will be affected by the ordinance. The County, the proposed District and certain state agencies will also be affected by or required to comply with the ordinance as more fully discussed hereafter.

4.0 A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed ordinance, and any anticipated effect on state or local revenues.

There is no state agency promulgating any rule relating to this project and there is no anticipated effect of the ordinance establishing the District on state or local revenues.

4.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance

Because the result of adopting the ordinance is the establishment of an independent local special purpose government, there will be no enforcing responsibilities of any other government entity, but there will be various implementing responsibilities which are identified with their costs herein.

State Governmental Entities

There will be only modest costs to various State governmental entities to implement and enforce the proposed establishment of the District. The District as established on the proposed land, will encompass under 1,000 acres, therefore, the Brevard County is the establishing entity under 190.005(2), F.S. The modest costs to various State entities to implement and enforce the proposed ordinance relate strictly to the receipt and processing of various reports that the District is required to file with the State and its various entities. Appendix A lists the reporting requirements. The costs to those State agencies that will receive and process the District's reports are very small, because the District is only one of many governmental units that are required to submit the various reports. Therefore, the marginal cost of processing one additional set of reports is inconsequential. Additionally, pursuant to section 189.412, F.S., the District must pay an annual fee to the State of Florida Department of Economic Opportunity which offsets such costs.

Brevard County, Florida

The proposed land for the District is located within the unincorporated Brevard County, Florida and consists of less than 1,000 acres. The County and its staff may process, analyze, conduct a public hearing, and vote upon the petition to establish the District. These activities will absorb some resources, however, these costs incurred by the County will be modest for a number of reasons. First, review of the petition to establish the District does not include analysis of the project itself. Second, the petition itself provides much of the information needed for a staff review. Third, the County already possesses the staff needed to conduct the review without the need for new staff. Fourth, there is no capital required to review the petition. Fifth, the potential costs are offset by a filing fee included with the petition to offset any expenses the County may incur in the processing of this petition. Finally, the County already processes similar petitions though for entirely different subjects, for land uses and zoning changes that are far more complex than the petition to establish a community development district.

The annual costs to County, because of the establishment of the District, are also very small. The District is an independent unit of local government. The only annual costs the County faces are the minimal costs of receiving and reviewing the various reports that the District is required to provide to the County, or any monitoring expenses the County may incur if it establishes a monitoring program for this District.

4.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on state or local revenues. The District is an independent unit of local government. It is designed to provide infrastructure facilities and services to serve the development project and it has its own sources of revenue and no state or local subsidies are required.

In this regard it is important to note that any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any other local government. In accordance with State law, debts of the District are strictly its own responsibility.

5.0 A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the ordinance.

Table 1 provides an outline of the various facilities and services the proposed District may provide. Financing for these facilities is projected to be provided by the District.

Table 2 illustrates the estimates of the capital facilities outlined in Table 1. The cost estimates are shown in Table 2. Total costs for those facilities, which may be provided, are estimated to be approximately \$81,729,894.74. District may levy non-ad valorem special assessment (by a variety of names) and may issue special assessment bonds to fund the costs of these facilities. These bonds would be repaid through non-ad valorem special assessments levied on all properties in the District that may benefit from the District's infrastructure program as outlined in Table 2.

Table 1

**FARMTON-BREVARD COMMUNITY DEVELOPMENT DISTRICT
Proposed Facilities and Services**

FACILITY	FUNDED	MAINTAINED	OWNERSHIP
Earthwork	CDD	CDD	CDD
Grading and Paving	CDD	CDD	CDD
Storm Water System	CDD	CDD	CDD
Sanitary Sewer	CDD	Utility Provider	Utility Provider
Potable Water	CDD	Utility Provider	Utility Provider
Reuse System	CDD	Utility Provider	Utility Provider
SR 5A Median Landscaping	CDD	CDD	CDD
Entry Feature Ponds, Landscape and Signage	CDD	CDD	CDD
Onsite Roadway Median Landscaping	CDD	CDD	CDD
Underground Electric	CDD	CDD	CDD
SR 5A Improvements	CDD	CDD	CDD

Prospective future landowners in the development may be required to pay non-ad valorem special assessments levied by the District to provide for facilities and secure any debt incurred through bond issuance. In addition to the levy of non-ad valorem special assessments which may be used for debt service, the District may also levy a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services. However, purchasing a property within the District or locating in the District by new residents is completely voluntary, so, ultimately, all landowners and residents of the affected property choose to accept the non-ad valorem assessments as a tradeoff for the services and facilities that the District will provide. In addition, state law requires all assessments levied by the District to be disclosed by the initial seller to all prospective purchasers of property within the District.

A CDD provides the property owners with an alternative mechanism of providing public services, however, special assessments and other impositions levied by the District and collected by law represent the transactional costs incurred by landowners as a result of the establishment of the District. Such transactional costs should be considered in terms of costs likely to be incurred under alternative public and private mechanisms of service provision, such as other independent special districts, County or its dependent districts, or County management but financing with municipal service benefit units and municipal service taxing units, or private entities, all of which can be grouped into three major categories: public district, public other, and private.

With regard to the public services delivery, dependent and other independent special districts can be used to manage the provision of infrastructure and services, however, they are limited in the types of services they can provide, and likely it would be necessary to employ more than one district to provide all services needed by the development.

Table 2

FARMTON-BREVARD COMMUNITY DEVELOPMENT DISTRICT
Estimated Costs of Construction

CATEGORY	COST
Earthwork	\$11,842,105.26
Grading and Paving	\$7,323,157.89
Storm Water System	\$4,878,947.37
Sanitary Sewer	\$8,293,578.95
Potable Water	\$9,422,947.37
Reuse System	\$1,458,947.37
SR 5A Median Landscaping	\$150,000.00
Entry Feature Ponds, Landscape and Signage	\$500,000.00
Onsite Roadway Median Landscaping	\$775,894.74
Underground Electric	\$1,657,894.74
Miscellaneous (i.e., staking, as built surveys, testing)	\$766,421.05
Contingency, Legal, Engineering	\$15,660,000.00
SR 5A Improvements	\$19,000,000.00
Total Estimated Project Costs	\$81,729,894.74

Other public entities, such as cities, are also capable of providing services, however, their costs in connection with the new services and infrastructure required by the new development and, transaction costs, would be borne by all taxpayers, unduly burdening existing taxpayers. Additionally, other public entities providing services would also be inconsistent with the State's policy of "growth paying for growth".

Lastly, services and improvements could be provided by private entities. However, their interests are primarily to earn short-term profits and there is no public accountability. The marginal benefits of tax-exempt financing utilizing CDDs would cause the CDD to utilize its lower transactional costs to enhance the quality of infrastructure and services.

In considering transactional costs of CDDs, it shall be noted that occupants of the lands to be included within the District will receive three major classes of benefits.

First, those residents in the District will receive a higher level of public services which in most instances will be sustained over longer periods of time than would otherwise be the case.

Second, a CDD is a mechanism for assuring that the public services will be completed concurrently with development of lands within the development. This satisfies the revised growth management legislation, and it assures that growth pays for itself without undue burden on other consumers. Establishment of the District will ensure that these landowners pay for the provision of facilities, services and improvements to these lands.

Third, a CDD is the sole form of local governance which is specifically established to provide District landowners with planning, construction, implementation and short and long-term maintenance of public infrastructure at sustained levels of service.

The cost impact on the ultimate landowners in the development is not the total cost for the District to provide infrastructure services and facilities. Instead, it is the incremental costs above, if applicable, what the landowners would have paid to install infrastructure via an alternative financing mechanism.

Consequently, a Community Development District provides property owners with the option of having higher levels of facilities and services financed through self-imposed revenue. The District is an alternative means to manage necessary development of infrastructure and services with related financing powers. District management is no more expensive, and often less expensive, than the alternatives of various public and private sources.

6.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.

There will be little impact on small businesses because of the establishment of the District. If anything, the impact may be positive because the District must competitively bid all of its contracts and competitively negotiate all of its contracts with consultants. This affords small businesses the opportunity to bid on District work.

Brevard County has a population of 543,376 according to the Census 2010 conducted by the United States Census Bureau and is therefore not defined as a "small" county according to Section 120.52, F.S.

7.0 Any additional useful information.

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Petitioner's Engineer and other professionals associated with the Petitioner.

In relation to the question of whether the proposed Farmton-Brevard Community Development District is the best possible alternative to provide public facilities and services to the project, there are several additional factors which bear importance. As an alternative to the independent CDD, the County could establish a dependent Special District for the area or establish an MSBU or MSTU. Either of these alternatives could finance the improvements contemplated in Tables 1 and 2 in a fashion similar to the proposed District.

There are a number of reasons why a dependent Special District is not the best alternative for providing public facilities and services to the Farmton-Brevard development. First, unlike a CDD, this alternative would require the County to administer the project and its facilities and services. As a result, the costs for these services and facilities would not be directly and wholly attributed to the land directly benefiting from them, as the case would be with a CDD. Administering a project of

the size and complexity of the development program anticipated for the Farmton-Brevard development is a significant and expensive undertaking.

Second, a CDD is preferable from a government accountability perspective. With a CDD, residents and landowners in the District would have a focused unit of government ultimately under their direct control. The CDD can then be more responsive to resident needs without disrupting other County responsibilities. By contrast, if the County were to establish and administer a dependent Special District, then the residents and landowners of the Farmton-Brevard development would take their grievances and desires to the County Commission meetings.

Third, any debt of an independent CDD is strictly that District's responsibility. While it may be technically true that the debt of a County-established, dependent Special District is not strictly the County's responsibility, any financial problems that a dependant Special District may have may reflect on the County. This will not be the case if a Community Development District is established.

Another alternative to a CDD would be for a Property Owners' Association (POA) to provide the infrastructure as well as operations and maintenance of public facilities and services. A CDD is superior to a POA for a variety of reasons. First, unlike a POA, a CDD can obtain low cost funds from the municipal capital markets. Second, as a government entity a CDD can impose and collect its assessments along with other property taxes on the Brevard County real estate tax bill. Therefore, the District is far more assured of obtaining its needed funds than is a POA. Third, the proposed District is a unit of local government. This provides a higher level of transparency, oversight and accountability.

8.0 A description of any regulatory alternatives submitted under Section 120.541(1)(a), F.S., and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed ordinance.

No written proposal, statement adopting an alternative or statement of the reasons for rejecting an alternative have been submitted.

Based upon the information provided herein, this Statement of Estimated Regulatory Costs supports the petition to establish the Farmton-Brevard Community Development District.

**APPENDIX A
LIST OF REPORTING REQUIREMENTS**

REPORT	FL. STATUE CITATION	DATE
Annual Financial Audit	190.008/218.39	9 months after end of Fiscal Year
Annual Financial Report	190.008/218.32	45 days after the completion of the Annual Financial Audit but no more than 9 months after end of Fiscal Year
TRIM Compliance Report	200.068	no later than 30 days following the adoption of the property tax levy ordinance/resolution (if levying property taxes)
Form 1 - Statement of Financial Interest	112.3145	within 30 days of accepting the appointment, then every year thereafter by 7/1 (by "local officers" appointed to special district's board); during the qualifying period, then every year thereafter by 7/1 (by "local officers" elected to special district's board)
Public Facilities Report	189.415	within one year of special district's creation; then annual notice of any changes; and updated report every 5 years, 12 months prior to submission of local government's evaluation and appraisal report
Public Meetings Schedule	189.417	quarterly, semiannually, or annually
Bond Report	218.38	when issued; within 120 days after delivery of bonds
Registered Agent	189.416	within 30 days after first meeting of governing board
Proposed Budget	189.418	prior to end of current fiscal year
Public Depositor Report	280.17	annually by November 30

Exhibit 9
Authorization of Owner

NOTARIZED AUTHORIZATION OF AGENT

I, Barbra Goering, as Manager of Swallowtail, LLC, a Delaware limited liability company, on behalf of the company hereby authorize Glenn D. Storch, P.A. to act as agent for Swallowtail, LLC with regard to any and all matters pertaining to the Petition to establish Farmton-Brevard Community Development District pursuant to Fla. Stat. § 190. This authorization shall remain in effect until revoked in writing.

SWALLOWTAIL, LLC
A Delaware Limited Liability Company

By: [Signature]
Barbra Goering
Manager of Swallowtail, LLC

Date: 4-30-2015

**STATE OF ILLINOIS
COUNTY OF COOK**

The foregoing instrument was acknowledged before me this 30th day of April, 2015, by Barbra Goering, as Manager of Swallowtail, LLC. She is personally known to me or has produced _____ as identification and did not take an oath.

Holly Cruz
Notary Public
Type, Print or Stamp Name
My commission expires:



Attachment No. 1
Florida Statutes Section 190.011 and 190.012

Select Year:

The 2014 Florida Statutes

[Title XIII](#)[Chapter 190](#)[View Entire Chapter](#)

PLANNING AND DEVELOPMENT COMMUNITY DEVELOPMENT DISTRICTS

190.011 General powers.—The district shall have, and the body may exercise, the following powers:

- (1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- (2) To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.
- (3) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set forth in s. [190.033](#).
- (4) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- (5) To adopt rules and orders pursuant to the provisions of chapter 120 prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.
- (6) To maintain an office at such place or places as it may designate within a county in which the district is located or within the boundaries of a development of regional impact or a Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, which includes the district, which office must be reasonably accessible to the landowners. Meetings pursuant to s. [189.015](#)(3) of a district within the boundaries of a development of regional impact or Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, may be held at such office.
- (7)(a) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for any of the purposes authorized by this act.

(b) When real property in the district is owned by a governmental entity and subject to a ground lease as described in s. 190.003(14), to collect ground rent from landowners pursuant to a contract with such governmental entity and to contract with the county tax collector for collection of such ground rent using the procedures authorized in s. 197.3631, other than the procedures contained in s. 197.3632.

(8) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this act.

(9) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such tax and special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(10) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(11) To exercise within the district, or beyond the district with prior approval by resolution of the governing body of the county if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of chapters 73 and 74, over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.

(12) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(13) To assess and impose upon lands in the district ad valorem taxes as provided by this act.

(14) To determine, order, levy, impose, collect, and enforce special assessments pursuant to this act and chapter 170. Such special assessments may, in the discretion of the district, be collected and enforced pursuant to the provisions of ss. 197.3631, 197.3632, and 197.3635, chapter 170, or chapter 173.

(15) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(16) To exercise such special powers as may be authorized by this act.

History.—s. 2, ch. 80-407; s. 8, ch. 84-360; s. 46, ch. 89-169; s. 4, ch. 91-308; s. 38, ch. 99-378; s. 1, ch. 2003-39; s. 7, ch. 2007-160; s. 5, ch. 2009-142; s. 69, ch. 2014-22.

Select Year:

The 2014 Florida Statutes

[Title XIII](#)[Chapter 190](#)[View Entire Chapter](#)

PLANNING AND DEVELOPMENT COMMUNITY DEVELOPMENT DISTRICTS

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

(a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(b) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d)1. District roads equal to or exceeding the applicable specifications of the county in which such district roads are located; roads and improvements to existing public roads that are owned by or conveyed to the local general-purpose government, the state, or the Federal Government; street lights; alleys; landscaping; hardscaping; and the undergrounding of electric utility lines. Districts may request the underground placement of utility lines by the local retail electric utility provider in accordance with the utility's tariff on file with the Public Service Commission and may finance the required contribution.

2. Buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(e) Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

(f) Conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(g) Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. [380.06](#) or s. [380.061](#) approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an

agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

(h) Any other project, facility, or service required by a development approval, interlocal agreement, zoning condition, or permit issued by a governmental authority with jurisdiction in the district.

(2) After the local general-purpose government within the jurisdiction of which a power specified in this subsection is to be exercised consents to the exercise of such power by the district, the district shall have the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

(a) Parks and facilities for indoor and outdoor recreational, cultural, and educational uses.

(b) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.

(c) School buildings and related structures and site improvements, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board.

(d) Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the district may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the district boundaries.

(e) Control and elimination of mosquitoes and other arthropods of public health importance.

(f) Waste collection and disposal.

(3) To adopt and enforce appropriate rules following the procedures of chapter 120, in connection with the provision of one or more services through its systems and facilities.

(4)(a) To adopt rules necessary for the district to enforce certain deed restrictions pertaining to the use and operation of real property within the district and outside the district pursuant to an interlocal agreement under chapter 163 if within another district or, if not within another district, with the consent of the county or municipality in which the deed restriction enforcement is proposed to occur. For the purpose of this subsection, the term "deed restrictions" means those covenants, conditions, restrictions, compliance mechanisms, and enforcement remedies contained in any applicable declarations of covenants and restrictions that govern the use and operation of real property and, for which covenants, conditions, and restrictions, there is no homeowners' association or property owner's association having respective enforcement powers unless, with respect to a homeowners' association whose board is under member control, the association and the district agree in writing to enforcement by the district. The district may adopt by rule all or certain portions of the deed restrictions that:

1. Relate to limitations, prohibitions, compliance mechanisms, or enforcement remedies that apply only to external appearances or uses and are deemed by the district to be generally beneficial for the district's landowners and for which enforcement by the district is appropriate, as determined by the district's board of supervisors; or

2. Are consistent with the requirements of a development order or regulatory agency permit.

(b) The board may vote to adopt such rules only when all of the following conditions exist:

1. The district was in existence on the effective date of this subsection, or is located within a development that consists of multiple developments of regional impact and a Florida Quality Development.

2. For residential districts, the majority of the board has been elected by qualified electors pursuant to the provisions of s. 190.006.

3. For residential districts, less than 25 percent of residential units are in a homeowners' association.

4. The declarant in any applicable declarations of covenants and restrictions has provided the board with a written agreement that such rules may be adopted. A memorandum of the agreement shall be recorded in the public records.

(c) Within 60 days after such rules take effect, the district shall record a notice of rule adoption stating generally what rules were adopted and where a copy of the rules may be obtained. Districts may impose fines for violations of such rules and enforce such rules and fines in circuit court through injunctive relief.

(d) The owners of property located outside the boundary of the district shall elect an advisor to the district board pursuant to paragraph (e). The sole responsibilities of the district board advisor are to review enforcement actions proposed by the district board against properties located outside the district and make recommendations relating to those proposed actions. Before the district board may enforce its rules against any owner of property located outside the district, the district board shall request the district board advisor to make a recommendation on the proposed enforcement action. The district board advisor must render a recommendation within 30 days after receiving a request from the district board or is deemed to have no objection to the district board's proposed decision or action.

(e)1. Whenever an interlocal agreement is entered into pursuant to paragraph (a), a district board advisor seat shall be created for one elected landowner whose property is within the jurisdiction of the governmental entity entering into the interlocal agreement but not within the boundaries of the district. The district board advisor shall be elected by landowners whose land is subject to enforcement by the district but whose land is not within the boundaries of the district. The district board advisor shall be elected for a 2-year term. The first election for a district board advisor shall be within 90 days after the effective date of the interlocal agreement between the district and the government entity.

2. The election of the district board advisor shall occur at a meeting of eligible landowners. The district shall publish notice of the meeting and election once a week for 2 consecutive weeks in a newspaper of general circulation in the area of the parties to the interlocal agreement. The notice must include instructions on how all landowners may participate in the election and how to obtain a proxy form. The last day of publication may not be less than 14 days or more than 28 days before the date of the election. The landowners, when assembled at the meeting, shall organize by electing a chair who shall conduct the meeting. The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions.

3. At the meeting, each landowner is entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. Each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. For purposes of determining voting interests, platted lots shall be counted individually and rounded up to the nearest whole acre. The acreage of platted lots may not be aggregated for purposes of determining the number of voting units held by a landowner or a landowner's proxy.

4. If a vacancy occurs in the district advisor seat, a special landowner election shall be held within 60 days after the vacancy using the notice, proxy, and acreage voting provisions of this subsection.

History.—s. 2, ch. 80-407; s. 51, ch. 83-217; s. 9, ch. 84-360; s. 47, ch. 89-169; s. 8, ch. 93-51; s. 39, ch. 99-378; s. 15, ch. 2000-317; s. 47, ch. 2000-364; s. 33, ch. 2004-345; s. 30, ch. 2004-353; s. 8, ch. 2007-160; s. 9, ch. 2009-142.

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