

HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE · 3434 COLWELL AVENUE · SUITE 200 · TAMPA, FLORIDA 33614

**HARBOR BAY
COMMUNITY DEVELOPMENT DISTRICT
BOARD OF SUPERVISORS' EMERGENCY MEETING
SEPTEMBER 3, 2015**

HARBOR BAY
COMMUNITY DEVELOPMENT DISTRICT AGENDA
SEPTEMBER 3, 2015 at 11:00 a.m.

Mira Bay Clubhouse (Lagoon Room) located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572

District Board of Supervisors	Bob Collins Bob Cribbs Kathryn Dukes Ned Carr Joe McNeil	Chairman Vice Chairman Assistant Secretary Assistant Secretary Assistant Secretary
District Manager	Matthew Huber	Rizzetta & Company, Inc.
District Attorney	Jere Earlywine	Hopping, Green & Sams
District Engineer	Jamie Scarola	Scarola Associates Engineering Design and Land Consultants, P.A.

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

The District Agenda is comprised of seven different sections:

The meeting will begin promptly at **11:00 a.m.** with the first section, which is called **Audience Comments**. The Audience Comment portion of the agenda is where individuals may comment on matters that concern the District. Each individual is limited to three **(3) minutes** for such comment. The Board of Supervisors or Staff is not obligated to provide a response until sufficient time for research or action is warranted. If the comment is maintenance related item, these items will need to be addressed by the District Administrator outside the context of this meeting. The second section is called **Staff Reports**. This section allows the District Administrator, Engineer, and Attorney to update the Board of Supervisors on any pending issues that are being researched for Board action. The third section is called **Business Administration** section contains items that require the review and approval of the District Board of Supervisors as a normal course of business. The fourth section is called **Business Items**. The business items section contains items for approval by the District Board of Supervisors that may require discussion, motion and votes on an item-by-item basis. Occasionally, certain items for decision within this section are required by Florida Statute to be held as a Public Hearing. During the Public Hearing portion of the agenda item, the public will be permitted to provide one comment on the issue, prior to the Board of Supervisors discussion, motion and vote. Agendas can be reviewed by contacting the Administrator's office at (813) 933-5571 at least seven days in advance of the scheduled meeting. Requests to address items that are not on this agenda must be submitted in writing with an explanation to the District Administrator at least fourteen (14) days prior to the date of the meeting and will be heard under "Public Comments". The fifth section is called **Staff Reports**. This section allows the District Administrator, Engineer, and Attorney to update the Board of Supervisors on any pending issues that are being researched for Board action. The sixth section is called **Supervisor Requests**. This is the section in which the Supervisors may request Staff to prepare certain items in an effort to meet residential needs. The final section is called **Audience Comments**. The Audience Comment portion of the agenda is where individuals may comment on matters that concern the District. Each individual is limited to three **(3) minutes** for such comment. The Board of Supervisors or Staff is not obligated to provide a response until sufficient time for research or action is warranted. If the comment is maintenance related item, these items will need to be addressed by the District Administrator outside the context of this meeting.

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

Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the District Office at (813) 933-5571, at least 48 hours before the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office.

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

**HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT
DISTRICT OFFICE • 3434 COLWELL AVENUE • SUITE 200 • TAMPA, FL 33614**

September 2, 2015

**Board of Supervisors
Harbor Bay Community
Development District**

AGENDA

Dear Board Members:

The emergency meeting of the Board of Supervisors of the Harbor Bay Community Development District will be held on **Thursday, September 3, 2015 at 11:00 a.m.** at the MiraBay Clubhouse located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572. The following is the agenda for this meeting:

- 1. CALL TO ORDER/ROLL CALL**
- 2. AUDIENCE COMMENTS ON AGENDA ITEMS**
- 3. BUSINESS ITEMS**
 - A. Resolution 2015-12, Declaring an EmergencyTab 1
 - B. Discussion of Emergency Repairs
- 4. SUPERVISOR REQUESTS**
- 5. AUDIENCE COMMENTS**
- 6. ADJOURNMENT**

I look forward to seeing you at the meeting. In the meantime, if you have any questions, please do not hesitate to contact me at (813) 933-5571.

Sincerely,

Matthew Huber

Matthew Huber
District Manager

Tab 1

RESOLUTION 2015-12

A RESOLUTION OF THE HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT DECLARING AND CERTIFYING THE EMERGENCY REPAIR OF CERTAIN COMMUNITY RETAINING WALL INFRASTRUCTURE AS A VALID PUBLIC EMERGENCY THAT CURRENTLY POSES AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY AND WELFARE OR OTHER SUBSTANTIAL LOSS AND REQUIRES EMERGENCY ACTION; DECLARING AND CERTIFYING THAT ANY DELAY IN THE EMERGENCY REPAIR OF THE RETAINING WALL INCIDENT TO COMPETITIVE PURCHASE WOULD BE DETRIMENTAL TO THE INTERESTS OF THE DISTRICT; DECLARING AND CERTIFYING THAT THE TIME REQUIRED TO OBTAIN PRICING INFORMATION FROM MULTIPLE VENDORS WILL INCREASE THE IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY, AND WELFARE OR OTHER SUBSTANTIAL LOSS; PROVIDING DIRECTION TO DISTRICT STAFF; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Harbor Bay Community Development District (the “**District**”) was established in accordance with Chapter 190, *Florida Statutes*, for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure improvements, including a storm water management system and other infrastructure; and

WHEREAS, consistent with the District’s capital improvement plan, the District has constructed and/or acquired various systems, facilities and infrastructure, including but not limited to a community retaining wall (also referred to as the seawall), which is an integral component of the District’s stormwater management system, located within the boundary of the District (the “**Retaining Wall Structure**”); and

WHEREAS, previously it had come to the District’s attention that the Retaining Wall Structure is experiencing stabilization issues that must be remedied in order to ensure the integrity of the retention structure, and recently such stabilization issues have become exacerbated and substantially worsened due to sudden and unexpected amounts of heavy rain (the “**Urgent Circumstances**”); and

WHEREAS, the District’s structural engineer has made the findings further described in the letter attached hereto as Exhibit A (the “**Public Emergency Certification Letter**”), including but not limited to the findings that (i) such Urgent Circumstances have caused damage or destruction that creates an immediate danger to the public health, safety and/or welfare or other substantial loss to public or private property requiring emergency government action; (ii) that such immediate danger to the public health, safety and/or welfare or other substantial loss to the District requires the emergency repair of the Retaining Wall; (iii) that any delay in the emergency repair of the Retaining Wall incident to competitive purchase would be detrimental to

the interests of the District; and (iv) the time required to obtain pricing information from additional vendors will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the District; and

WHEREAS, the emergency repair of the Retaining Wall Structure constitutes the repair of an existing public facility or structure; and

WHEREAS, based on the structural engineer's findings, the District desires to immediately undertake emergency repairs to the Retaining Wall Structure and finds that the delay incident to competitive purchase would be detrimental to the interests of the District; and

WHEREAS, as a result of the immediate and extreme damage or destruction to the Retaining Wall Structure caused by the Urgent Circumstances, the Board of Supervisors (the "**Board**") of the District desires to certify that a valid public emergency exists in relation to the stability of such structure in accordance with section 287.055(3)(a)1., *Florida Statutes*, and that such damage or destruction has caused an immediate danger to the public's health, safety and/or welfare or other substantial loss to public or private property that requires emergency action in accordance with sections 287.057(3)(a) and 255.20(1)(c)1., *Florida Statutes*, and the District's Rules of Procedure; and

WHEREAS, additionally as a result of the immediate and extreme damage or destruction to the Retaining Wall Structure caused by the Urgent Circumstances, the Board of Supervisors (the "**Board**") of the District desires to certify that any delay in the emergency repair of the Retaining Wall incident to competitive purchase would be detrimental to the interests of the District in accordance with the District's Rules of Procedure, and any additional time required to obtain pricing information from multiple vendors will increase the immediate danger to the public, health, safety, or welfare or other substantial loss to the District in accordance with section 287.057(3)(a), *Florida Statutes*; and

WHEREAS, in accordance therewith, the Board desires to dispense with the statutory procurement procedures related to the procurement of commodities, professional consultants and/or contractors, including the requirement to obtain pricing information from multiple prospective vendors, in order to immediately procure the services necessary to order supplies, design, construct and/or oversee the emergency repair of the Retaining Wall Structure.

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

SECTION 1. INCORPORATION OF RECITALS. All of the above recitals are recognized as true and accurate and are expressly incorporated into this Resolution.

SECTION 2. CERTIFICATION OF VALID PUBLIC EMERGENCY AND IMMEDIATE DANGER TO PUBLIC HEALTH, SAFETY AND WELFARE. The District's Board hereby finds, upon the recommendation of and consultation with the District's structural engineer as evidenced in the Public Emergency Certification Letter, that (i) the Urgent

Circumstances have aggravated the condition of the Retaining Wall at certain isolated locations such that there is an immediate danger to the public health, safety and/or welfare or other substantial loss to public or private property that requires emergency government action; (ii) that such immediate danger to the public health, safety and/or welfare or other substantial loss to the District requires the emergency repair of the Retaining Wall; (iii) that any delay in the emergency repair of the Retaining Wall incident to competitive purchase would be detrimental to the interests of the District; and (iv) the time required to obtain pricing information from additional vendors will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the District. Therefore, the District declares and certifies that a valid public emergency exists in relation to the stability of the District's Retaining Wall Structure in accordance with section 287.055(3)(a)1., *Florida Statutes*, and that such damage or destruction caused an immediate danger to the public's health, safety and/or welfare or other substantial loss to public or private property that requires emergency action in accordance with sections 287.057(3)(a) and 255.20(1)(c)1., *Florida Statutes*, and the District's Rules of Procedure. Additionally, the District declares and certifies that any delay in the emergency repair of the Retaining Wall incident to competitive purchase would be detrimental to the interests of the District in accordance with the District's Rules of Procedure, and any additional time required to obtain pricing information from multiple vendors will increase the immediate danger to the public, health, safety, or welfare or other substantial loss to the District in accordance with section 287.057(3)(a), *Florida Statutes*.

SECTION 3. DIRECTION TO DISTRICT STAFF. In accordance with Section 2 of this Resolution and pursuant to the District's Rules of Procedure and Florida law, the Board hereby directs District staff to dispense with the statutory procurement procedures related to the procurement of commodities, professional consultants and/or contractors, including the requirement to obtain pricing information from multiple prospective vendors, and to immediately procure the services necessary to order supplies, design, construct and/or oversee the emergency repair of the Retaining Wall Structure.

SECTION 4. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Resolution shall not affect the validity or enforceability of the remaining portions of this Resolution, or any part thereof.

[CONTINUED ON NEXT PAGE]

SECTION 5. EFFECTIVE DATE. This Resolution shall take effect immediately upon the passage and adoption of this Resolution by the Board of Supervisors of the Harbor Bay Community Development District.

DONE AND RESOLVED this 3rd day of September, 2015 by the Board of Supervisors of the Harbor Bay Community Development District.

ATTEST:

**HARBOR BAY COMMUNITY
DEVELOPMENT DISTRICT**

Secretary

Chairman/Vice Chairman

EXHIBIT A:
PUBLIC EMERGENCY CERTIFICATION LETTER

**PUBLIC EMERGENCY CERTIFICATION
FOR CERTAIN AREAS OF THE COMMUNITY RETAINING WALL**

September 3, 2015

Board of Supervisors
Harbor Bay Community Development District

Re: Harbor Bay Community Development District (Hillsborough County, Florida)
Certification of Public Emergency

Ladies and Gentlemen:

Langan Engineering and Environmental Services, Inc. (the “Structural Engineer”), as Structural Engineer for the Harbor Bay Community Development District (the “District”), has been retained by the District in order to address the current stabilization issues of the community retaining wall (the “Retaining Wall”) caused by prior construction defects (the “Master Stabilization Project”).

In connection with the Master Stabilization Project, we conducted an evaluation of the Retaining Wall after recent sudden and unexpected amounts of heavy rain were suspected to have exacerbated previously existing stabilization issues. Following such evaluation, the undersigned, an authorized representative of the Structural Engineer, hereby certifies the following findings in regards to the Retaining Wall:

1. I have inspected the Retaining Wall located within the District and performed certain measurements relating to the rotation of the cap at the top of the Retaining Wall.
2. As a result of such inspections and analysis, I find that the recent sudden and unexpected amounts of heavy rain have aggravated the condition of the Retaining Wall at certain isolated locations such that there is an immediate danger to the public health, safety and/or welfare or other substantial loss to public or private property that requires emergency government action.
3. Such immediate danger to the public health, safety and/or welfare or other substantial loss to the District requires the emergency repair of the Retaining Wall, at the locations identified in **Exhibit A** attached hereto.
4. Any delay in the emergency repair of the Retaining Wall that would be incident to competitive purchase would be detrimental to the interests of the District. Further, any additional time required to obtain pricing information from multiple vendors will increase the immediate danger to the public, health, safety, or welfare or other substantial loss to the District.
5. Further, I find that the pricing obtained by the District to conduct the work is reasonable and consistent with market standards.

[CONTINUED ON NEXT PAGE]

Under penalties of perjury, I declare that I have read the foregoing certificate and that the facts stated in it are true.

LANGAN ENGINEERING AND ENVIRONMENTAL SERVICES, INC.

Roger Archabal, P.E.

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____, Langan Engineering and Environmental Services, Inc., who is personally known to me or who has produced _____ as identification, and did [] or did not [] take the oath.

Notary Public, State of Florida
Print Name: _____
Commission No.: _____
My Commission Expires: _____