

# Central Florida Tourism Oversight District

## BOARD OF SUPERVISORS

**April 26, 2023**  
**9:30 a.m.**

**Central Florida Tourism Oversight District  
Board of Supervisors Meeting**

**Agenda**

**April 26, 2023**

**9:30 a.m.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SAFETY MINUTE
4. PUBLIC COMMENT PERIOD
5. CONSENT AGENDA  
No items
6. INFORMATIONAL ITEMS
  - 6.1 Permitting and Regulatory Report
  - 6.2 Proposed 2024 Budget Calendar
7. REPORTS
  - 7.1 Management Report
  - 7.2 Acting General Counsel Report
8. NEW BUSINESS
  - 8.1 Approval of legislative findings regarding and declare the Development Agreement and Declaration of Restrictive Covenants entered into by the Reedy Creek Improvement District and Walt Disney Parks and Resorts U.S. void *ab initio* and direction to litigation counsel regarding same.
9. PUBLIC HEARINGS
  - 9.1 Resolution No. 639 (Final Reading) – A RESOLUTION OF THE CENTRAL FLORIDA TOURISM OVERSIGHT DISTRICT AMENDING ARTICLE 6, CHAPTER 6-90 AND ARTICLE 7, CHAPTER 7-20 AND CHAPTER 7-30 OF THE RCID LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

9.2 Resolution No. 640 - A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE CENTRAL FLORIDA TOURIST OVERSIGHT DISTRICT ADOPTING REGULATIONS PROHIBITING COVID-19 RESTRICTIONS AND MANDATES BY BUSINESSES WITHIN THE DISTRICT UPON THEIR CUSTOMERS OR PATRONS AND PROHIBITING COVID-19 RESTRICTIONS AND MANDATES REGARDING THE SERVICES AND OPERATIONS OF THE CENTRAL FLORIDA TOURIST OVERSIGHT DISTRICT; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

10. UNFINISHED BUSINESS

10.1 Special Advisor to the Board and District Administrator positions

10.2 General Counsel

10.3 District Clerk Job Description

11. OTHER BUSINESS

11.1 Executive Session – Closed meeting in accordance with Section 286.011(8), Florida Statutes, to discuss the litigation case between the District and Tracy Schrey – Case No. 2018-CA-007365-O. – An advertisement regarding such closed meeting and those persons in attendance was published in the Orlando Sentinel on Friday, April 21, 2023.

12. ADJOURN

APPEALS: All persons are advised that, if they decide to appeal any decision made at a Board of Supervisors hearing, they will need a verbatim transcript of the record of the proceedings. It is the responsibility of every party-in-interest to arrange for a transcript of the proceedings, which must include the verbatim testimony and evidence upon which the appeal is made.

AMERICANS WITH DISABILITIES ACT: The Central Florida Tourism Oversight District is committed to reasonably accommodating the needs of anyone with disabilities who wishes to attend or participate in public meetings. Anyone with a disability who requires a reasonable accommodation should contact the Clerk of the Board, by telephone at (407) 934-7480 or via email (currently at [DistrictClerk@rcid.org](mailto:DistrictClerk@rcid.org)), no less than one business day (i.e. Monday through Friday, excluding legal holidays) in advance of the applicable meeting to ensure that the District has sufficient time to accommodate the request.

# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 6.1

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<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
Permitting and Regulatory Report for March 2023	
<b>Requested Action</b>	
None	
<b>Staff Report</b>	
The attached Permitting and Regulatory Report is for the month of March 2023.	
<b>Additional Analysis</b>	
None	
<b>Fiscal Impact Summary</b>	
None	
<b>Exhibits Attached</b>	
1. Permitting and Regulatory Report - March 2023	

# Central Florida Tourism Oversight District (CFTOD)

## Regulatory Activity Summary

Month of March 2023

### Planning & Engineering

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Consistency/Concept Plan/Site Plan Reviews:	<u>4</u>	
Stormwater Permit Application Reviews:	<u>6</u>	
Site Construction Permit Application Reviews:	<u>24</u>	
Dewatering Permit Application Reviews:	<u>4</u>	
Right-of-way Utilization Permit Application Reviews:	<u>15</u>	
Tributary Basin (stormwater) Reviews:	<u>35</u>	<i>(in progress)</i>
Construction Compliance Inspections completed:	<u>39</u>	<i>(Projects Weekly)</i>

### Building & Safety

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Permit applications submitted:	<u>658</u>	
Permits issued or approved:	<u>893</u>	
Inspections and re-inspections completed:	<u>3,771</u>	
Elevator:	<u>530</u>	
Pool:	<u>208</u>	
*Annual Emergency Power Tests Conducted:	<u>9</u>	

\* Note: These overnight testing procedures are conducted to verify proper function of emergency power transfer, smoke control systems, exit and emergency illumination, and stairwell pressurization within buildings occupied by staff and public.

### Environmental Sciences

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#### **Water quality**

Sample Sites visited:	<u>434</u>
Samples taken:	<u>1,464</u>
Tests completed:	<u>4,024</u>

#### **Mosquito Monitoring**

Traps set:	<u>199</u>	<i>(50 locations/week)</i>
Mosquitos Collected:	<u>9,429</u>	
Sentinel Chickens Tested:	<u>192</u>	<i>(blood samples)</i>

Note: Recent dry conditions have aided in keeping mosquito populations to a minimum.

# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 6.2

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<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
Proposed 2024 Budget Calendar	
<b>Requested Action</b>	
None	
<b>Staff Report</b>	
The attached is a proposed 2024 Budget Calendar.	
<b>Additional Analysis</b>	
None	
<b>Fiscal Impact Summary</b>	
None	
<b>Exhibits Attached</b>	
1. Proposed 2024 Budget Calendar	

**CENTRAL FLORIDA TOURISM OVERSIGHT DISTRICT**

P. O. Box 10,170

Lake Buena Vista, Florida 32830

April 21, 2023

To: Distribution  
From: Susan Higginbotham  
Subject: Ad Valorem Trim and Utilities Budget Timetable FY2024

<b>Description</b>	<b>Date</b>	<b>Responsibility</b>	<b>Notes</b>
• Budget requests due from departments	6/01/2023	Departments	
• Budget meetings with departments	6/22/2023- 6/30/2023	All	
• BOS meeting reviewing Ad Valorem budget/millage rate	07/12/2023	All	
• BOS meeting reviewing Ad Valorem budget/millage rate and Utility budget/utility rates	7/26/2023	All	
• File DR-420 with County Property Appraisers	8/4/2023	Finance	Set date
• BOS budget workshop reviewing Ad Valorem budget/millage rate and Utility budget/utility rates	08/23/2023	All	
• Mail Trim Notices	8/24/2023	Orange & Osceola Property Appraisers	Set date
• Tentative Budget Hearing-BOS approves tentative budgets and rates	9/13/2023	All	9/3 to 9/18
• Final Hearing Letters mailed • Utility Rates advertised if updated	9/15/2023	Finance	At least 10 days prior to final budget hearing
• Final Budget Hearing-BOS approves final budgets and rates	9/27/2023	All	Within 15 days after tentative budget adopted
• File Resolutions filed w/ County Property Appraisers	09/29/2023	Finance	Within 3 days after adopt final mil
• Trim Final Package filed with DOR	10/27/2023	Finance	30 days after adopt final mil
• Updated Utility rates in effect	10/01/2023	Finance	First meeting reading after Oct 1
• Ad Valorem Invoices mailed	November 2023	Orange & Osceola Tax Collectors	

# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 8.1

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<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
Legislative findings regarding February 8, 2023 Development Agreement and Declaration of Restrictive Covenants	
<b>Requested Action</b>	
Approval of legislative findings regarding and declare the February 8, 2023 Development Agreement and Declaration of Restrictive Covenants entered into by the Reedy Creek Improvement District and Walt Disney Parks and Resorts U.S., Inc. void and unenforceable and direction to litigation counsel to commence litigation as needed to have such instruments declared void and unenforceable, prohibit the enforcement of the same, to have such instruments terminated or stricken from the public records of Orange and Osceola Counties and to assert these legislative findings and seek remedies regarding the same.	
<b>Staff Report</b>	
The Acting General Counsel and litigation team members from Lawson, Huck & Gonzalez, PLLC and Cooper Kirk PLLC have made a number of reports and presentations during March 29, 2023 and April 19, 2023 CFTOD Board of Supervisors' meetings. An additional report will be provided during the April 26, 2023 meeting in advance of a request for action from the Board.	
<b>Additional Analysis</b>	
<b>Fiscal Impact Summary</b>	
<b>Exhibits Attached</b>	
1. Legislative findings regarding February 8, 2023 Development Agreement and Declaration of Restrictive Covenants	



**Legislative Findings of the Central Florida Tourism Oversight District  
Board of Supervisors Relating to the February 8, 2023, Development Agreement and  
Declaration of Restrictive Covenants**

**Whereas**, on February 8, 2023, the former members of the Board of Supervisors of the Reedy Creek Improvement District, now known as the Central Florida Tourism Oversight District, (the “District”), executed two agreements with Walt Disney Parks & Resorts U.S., Inc. (“Disney”): (1) the Walt Disney World Chapter 163 Development Agreement (the “development agreement), and (2) the Declaration of Restrictive Covenants (the “restrictive covenants”); and

**Whereas**, after hearing presentations from its acting general counsel and litigation counsel team at public meetings regarding the development agreement and the restrictive covenants, the Board of Supervisors of the District makes the following legislative findings.

1. The development agreement states that it was entered into pursuant to and is subject to the provisions of the Florida Local Government Development Agreement Act, §§ 163.3220-163.3243, Fla. Stat.

2. The Florida Local Government Development Agreement Act contains an express, mandatory notice provision, which provides in relevant part:

**Public hearings.**

(1) Before entering into, amending, or revoking a development agreement, a local government shall conduct at least two public hearings. At the option of the governing body, one of the public hearings may be held by the local planning agency.

(2)(a) Notice of intent to consider a development agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation and readership in the county where the local government is located. Notice of intent to consider a development agreement shall also be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

§ 163.3225, Fla. Stat.

3. Disney is not the sole property owner in the District. In addition to land owned by the District itself, other property owners within the District include private entities not affiliated with Disney and governmental entities.

4. The development agreement affects these other property owners. The following are some examples:

(a) under the terms of the development agreement, the District agrees, on a prospective basis, that development in the District must be allowed to the maximum levels authorized under the District's 2032 Comprehensive Plan, including the maximum densities and intensities. The development agreement then gives all the development rights in the District to Disney, which, pursuant to the development agreement, now owns and controls such development rights. Any property owner who proposes development within the District that would require the use of these development rights must first obtain prior written approval for the proposed development from Disney, and it is left to Disney's discretion whether or not to assign any development rights to other property owners in the District.

(b) under the terms of development agreement, the height of any building constructed by any property owner within the District is controlled by and must be approved by Disney;

(c) under the terms of the development agreement, the District must fund, design, and construct (or cause to be constructed) certain infrastructure projects, including a number of road projects. As set forth in the development agreement, these road projects must be funded by general obligation bonds financed with ad valorem taxes levied by the District, using a combination of funds on hand and new bond funds. In other words, the development agreement requires the District to levy and collect property tax revenue from all tax payers in the District in order to finance new bonds for these road project. The capital improvement section of the development agreement projects that the District must fund approximately \$300,000,000 in new general obligation bond funds through 2027 and approximately \$544,000,000 through 2030.

5. Prior to entering into this development agreement, the District's prior Board of Supervisors held two public hearings. The first hearing was held on January 25, 2023, during a Board of Supervisors meeting. Approximately six minutes of the Board's time was devoted to the first hearing on the development agreement. The second hearing was held on February 8, 2023, during a Board of Supervisors meeting. Approximately one minute of the Board's time was devoted to this second hearing on the development agreement, after which the Board approved the agreement.

6. Prior to the January 25 and February 8 Board meetings, the District published notices of intent to consider a development agreement in the *Orlando Sentinel*. The notices were

published on January 18 and 27, respectively. The *Orlando Sentinel* is a newspaper of general circulation and readership in both Orange and Osceola Counties. Such notices published in the newspaper did not fully inform the public or other property owners of the purposes or contents of the development agreement and how other property owners and the taxpayers of the District were affected by such proposed agreement.

7. Prior to the January 25 and February 8 Board meetings, the District did not post a copy of its agenda packages for such meetings on its website. The District did not upload agenda packages for the January 25 and February 8, 2023 meetings onto its website until early March 2023 after the new Board of Supervisors appointed by the Governor took office. Copies of the proposed development agreement and declaration of restrictive covenants were not posted on the District's website in advance of the January 25 and February 8 Board meetings.

8. Prior to the January 25 meeting, the District did not mail notice of intent to consider a development agreement to all property owners affected by the development agreement.

9. Because the District failed to comply with 163.3225(2)(a), the development agreement is void and unenforceable.

10. The Florida Local Government Development Agreement Act provides that "[a]ny local government may, by ordinance, establish procedures and requirements ... to consider and enter into a development agreement." Fla. Stat. § 163.3223.

11. Absent the enactment of such an ordinance, a local government like the District is not authorized to enter a development agreement.

12. The District failed to satisfy this condition precedent before entering the development agreement. Because the District did not pass enabling rules as § 163.3223 requires, the District lacked authority to enter the development agreement, and the development agreement is void and unenforceable.

13. Under the terms of the development agreement, any local government laws and policies governing development that were effect on February 8, 2023, i.e., the date of execution, shall govern development under the development agreement for the duration of the agreement.

14. There are two municipalities within the boundaries of the District: the City of Bay Lake ("Bay Lake") and the City of Lake Buena Vista ("Lake Buena Vista"). Prior to February 27, 2023, and thus at the time the development agreement was approved by the District

and executed, Bay Lake and Lake Buena Vista had exclusive authority over comprehensive planning, land development regulations, development orders, and building permitting within their municipal boundaries, while the District had exclusive authority over those matters for lands in the District outside the municipal boundaries. Thus, at the time that the development agreement was executed, the District had no authority or jurisdiction to approve or regulate development-related activities on property located within the municipalities' boundaries, including, but not limited to, issuing development orders, building permits, or enforcing the District's comprehensive plan and land development regulations.

15. The development agreement applies to property that is located inside the boundaries of Bay Lake and Lake Buena Vista and to property that is located outside those municipalities' boundaries.

16. The only signatories to the development agreement are the District and Disney. Bay Lake and Lake Buena Vista did not sign development agreement, and the District did not purport to sign the agreement on behalf of either municipality. Bay Lake and Lake Buena Vista did not conduct public hearings on or approve the development agreement.

17. Under the development agreement, the District assigns to Disney all of the development rights within the District, regardless of whether such rights are held or regulated by Bay Lake or Lake Buena Vista. In addition, under the development agreement, all proposed development, whether within or outside the municipalities' boundaries, will be subject to the District's land development regulations, including reviewing and approving development applications, issuing development orders and building permits, and enforcing other aspects of its land development regulations.

18. Because the District had no authority or jurisdiction on February 8, 2023, to approve or regulate this activity and because Bay Lake and Lake Buena Vista did not conduct public hearings on, approve, or join as parties to the development agreement, the development agreement is void and unenforceable.

19. The development agreement requires the District to levy and collect ad valorem taxes from the District's tax payers in order to finance new general obligation bonds used to fund certain road and utility capital improvement projects.

20. Article VII, section 12 of the Florida Constitution provides that the District can issue general obligation bonds to finance capital projects that are payable from its ad valorem

taxation and that mature more than twelve (12) months after their issuance only when approved by “vote of the electors who are owners of freeholds therein not wholly exempt from taxation.”

21. The development agreement constitutes a general obligation debt of the District for capital improvement projects exceeding a twelve (12) month period in violation of the Florida constitution. Because the development agreement is unconstitutional, it is void and unenforceable.

22. As already found above, prior to February 27, 2023, Bay Lake and Lake Buena Vista had exclusive authority over comprehensive planning, land development regulations, and development order and building permit authority within their municipal boundaries, while the District had exclusive authority over those matters for lands within the District outside the municipal boundaries. Thus, prior to February 27, 2023, establishing uniform guidelines and regulations for development within the entirety of the District’s boundaries required all three local governments – the District, Bay Lake, and Lake Buena Vista – to adopt a joint comprehensive plan and identical land development regulations.

23. In or around 1991, the District, Bay Lake, and Lake Buena Vista adopted a joint comprehensive plan, which was amended from time to time.

24. On November 14, 2018, Bay Lake, Lake Buena Vista, and the District each conducted a first reading and public hearing on their respective resolutions/ordinances to adopt amendments to the joint comprehensive plan. The hearings were held at 8:30, 9:00, and 9:30 a.m. respectively. Attached to each proposed resolution/ordinance was an Exhibit A that set out the text of the proposed amendments. The proposed amendments primarily addressed the deannexation of approximately 100 acres of land within the District’s boundaries, as well as certain amendments that were required because of changes in the Florida Administrative Code. The proposed amendments that were the subject of the first public hearings did not revise the densities or intensities of the existing joint comprehensive plan nor did they include a capital improvements program.

25. On May 22, 2022, at 9:30 a.m., after a three-and-a-half year gap, the District conducted its second reading and public hearing on its proposed resolution/ordinance to adopt amendments to the joint comprehensive plan. Unlike the first reading and hearing, the proposed resolution/ordinance did not attach an Exhibit A nor otherwise set out the text of the proposed

amendment. The Board of Supervisors adopted the resolution/ordinance, and thereby the purported proposed amendments to the joint comprehensive plan, at that hearing.

26. On May 24, 2022, at 8:30 and 9:00 a.m. respectively, Bay Lake and Lake Buena Vista conducted their second readings and public hearings on their proposed ordinances to adopt amendments to the joint comprehensive plan. Like the District, the municipalities' proposed ordinances did not attach an Exhibit A nor otherwise set out the text of the proposed amendments. Each municipality adopted its respective ordinance, and thereby the purported proposed amendments to the joint comprehensive plan, at those hearings.

27. The amendments to the joint comprehensive plan jointly transmitted by the District, Bay Lake, and Lake Buena Vista to the State of Florida Department of Economic Opportunity ("DEO") after the May 2022 second reading and public hearings substantially and materially differ from and serve a new purpose than the proposed amendments that had been set out in full in the exhibits attached to the resolutions/ordinances considered at the first reading and public hearings in November 2018. For example, the amendments that were purportedly approved at the second public hearings substantially increased the allowed densities and intensities and changed the uses within the District and the municipalities. Additionally, the amendments that were purportedly approved at the second public hearings include a significant capital improvement program. None of these provisions were included in the text of the amendments noticed at the first public hearings and transmitted to DEO in November 2018. Nor had the text of these provisions been set out in the resolutions/ordinances considered at the second readings and public hearings.

28. After adoption of the ordinances/resolutions relating to amendments to the joint comprehensive plan, the District, Bay Lake, and Lake Buena Vista adopted, via resolution/ordinance, amendments to their land development regulations. The District held its public hearings on December 14, 2022, and January 25, 2023, at 9:30 a.m. Bay Lake held its public hearings on January 11, 2023, and February 8, 2023, at 8:30 a.m. Lake Buena Vista held its public hearings on January 11, 2023, and February 8, 2023, at 9:00 a.m. Additionally, neither Bay Lake nor Lake Buena Vista set out, whether by way of exhibit to or in the body of the ordinance, the language of the proposed amendments to their land development regulations. Bay Lake and Lake Buena had not adopted their ordinances concerning the amendments to land development regulations prior to the District's 1<sup>st</sup> public hearing on the DA.

29. In advance of their January 25, 2023, and February 8, 2023, meetings, Bay Lake and Lake Buena Vista did not publish advertisements in the newspaper giving any notice of their intent to conduct a public hearing(s) on or adopt ordinances to amend their land development regulations. Thus, Bay Lake and Lake Buena Vista failed to comply with the requirements of Section 166.041, Florida Statutes concerning the adoption of their land development regulation amendments.

30. The land development regulations purportedly adopted by the District, Bay Lake and Lake Buena Vista in January and February of 2023, changed the list of uses permitted and increased densities and intensities of uses.

31. When enacting ordinances or resolutions, municipalities like Bay Lake and Lake Buena Vista must comply with the provisions of § 166.041, Fla. Stat. That statute provides in relevant part: “No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.” § 166.041(2), Fla. Stat.

32. Section 166.041(3)(c), Florida Statutes, requires a particular type of newspaper advertisement to be published for proposed ordinances that change the actual list of permitted, conditional, or prohibited uses or change a zoning map. All other proposed ordinances of municipalities must be advertised for a public hearing pursuant to the minimum requirements of Section 166.041(3)(a), Florida Statutes.

33. At the time that the District adopted its resolutions/ordinances regarding the amendments to the joint comprehensive plan and land development regulations, the District was also subject to these statutory requirements for municipalities.

34. Because the adopted amendments to the joint comprehensive plan and land development regulations changed intensities, densities, and uses of land within the District and municipalities and modified the future land use map, they qualified as changes in the “list of permitted, conditional, or prohibited uses within a zoning category” or changes in the “zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more.” The District and the municipalities thus were required to hold at least one of the public hearings after 5 p.m. § 166.041(3)(c)1.a., Fla. Stat., which did not happen.

35. With respect to the comprehensive plan amendments purportedly adopted in May 2022, the District, Bay Lake, and Lake Buena Vista adopted these resolutions/ordinances

illegally and in violation of § 166.041, Fla. Stat., and Florida law, and they are void and unenforceable because:

(a) the District, Bay Lake, and Lake Buena Vista failed to set out in full the amendments to the joint comprehensive plan that were adopted at the second public hearings;

(b) the District, Bay Lake, and Lake Buena Vista failed to hold at least one public hearing on the amendments to the joint comprehensive plan after 5 p.m.;

(c) the District, Bay Lake, and Lake Buena Vista failed to start anew and have two advertised readings and public hearings on the materially and substantially modified comprehensive plan amendment that had a different purpose than the original purpose of the EAR-based comprehensive plan amendment transmitted to DEO in November 2018.

36. With respect to the land development regulation amendments purportedly adopted in February 2023 by Bay Lake and Lake Buena Vista, Bay Lake Ordinance No. 139 and Lake Buena Vista Ordinance No. 132 are void and unenforceable because:

(a) Bay Lake and Lake Buena Vista failed to set out in full the amendments to their land development regulations that were adopted at their February 8, 2023, Council meetings;

(b) Bay Lake and Lake Buena Vista failed to hold at least one public hearing on the amendments to their land development regulations after 5 p.m.;

(c) Bay Lake and Lake Buena Vista failed to advertise these Ordinances as required by Section 166.041, Florida Statutes.

(d) These land development regulation amendments are not consistent with the Comprehensive Plan -- as set forth herein, the May 2022 Comprehensive Plan Amendment was not effective and did not amend the Comprehensive Plan.

37. With respect to the land development regulation amendments purportedly adopted in January 2023 by the District via Ordinance/Resolution No. 637, such Ordinance/Resolution is void and unenforceable because:

(a) The official executed Ordinance/Resolution No. 637 failed to set out in full the amendments to the District's land development regulations that were adopted;

(b) The District failed to hold at least one public hearing on the amendments to its land development regulations after 5 p.m.;



(c) The District had no authority to adopt land development regulations inconsistent with the Comprehensive Plan -- as set forth herein, the May 2022 Comprehensive Plan Amendment was not effective and did not amend the Comprehensive Plan; and

(d) The District had no authority to adopt land development regulations within the jurisdictional limits of the Cities of Lake Buena Vista and Bay Lake, and such cities failed to properly adopt land development regulation amendments in tandem with the District's proposed land development regulations.

38. Each of these is a separate violation of § 166.041, Fla. Stat., that renders the resolutions/ordinances void *ab initio*. Because the amendments to the joint comprehensive plan and the land development regulations are void, the prior version of the joint comprehensive plan remains in effect pursuant to § 163.3197, Fla. Stat. Further, the prior version of the District, Lake Buena Vista and Bay Lake land development regulations remain in effect, not the versions purportedly adopted in January and February 2023.

39. Section 163.3231, Fla. Stat., provides that a development agreement “shall be consistent with the local government’s comprehensive plan and land development regulations.”

40. The maximum development program identified in Table 1, the densities and intensities identified in Table 2, and the capital improvement element identified in Exhibit 3 of the February 8, 2023, development agreement are inconsistent with the joint comprehensive plan and land development regulations currently in effect.

41. Because the development agreement violates the consistency mandate of § 163.3231, Fla. Stat., it is void and unenforceable.

42. Florida law has long prohibited any local government from contracting away its discretionary legislative power.

43. The development agreement contracts away the District’s discretionary legislative power in multiple ways. It provides that “if there is any conflict between the [Development] Agreement and the Comprehensive Plan or RCID LDRs [Land Development Regulations] this [Development] Agreement shall prevail.” That provision elevates a private contractual agreement above the binding legislative acts of the District and is therefore invalid and unenforceable. Moreover, it violates the statutory requirement that any development agreement be “consistent with the local government’s comprehensive plan and land development regulations.” Fla. Stat. § 163.3227(1)(g).

44. The development agreement also gives Disney authority to set maximum building heights throughout the District and assigns “all of the development rights and entitlements” in the District to Disney. The Florida Legislature explicitly empowered the District to perform these functions, both under the legislative act establishing the District in 1967 and the more recent legislation that took effect this year. These are governmental functions that the District could not lawfully delegate to a private entity.

45. Additionally, the development agreement obligates the District to “fund[], design[] and construct[]” public facilities to accommodate Disney’s future growth, but without allowing for periodic reassessment of currently planned projects, including as encouraged or required by law. This improperly delegates the District’s governmental authority to a private entity in violation of § 163.3191, Fla. Stat., which requires the District to “evaluate its comprehensive plan to determine if plan amendments are necessary to reflect changes in state requirements” “[a]t least once every 7 years,” and “encourag[es]” local governments like the District “to comprehensively evaluate and, as necessary, update comprehensive plans to reflect changes in local conditions.

46. The development agreement contains multiple invalid delegations of the District’s governmental authority to Disney, a private entity, it is void and unenforceable.

47. Contract principles apply to development agreements.

48. Agreements that contravene the Legislature’s intent are void as against public policy.

49. The Florida Legislature established the policies that govern the District through House Bill (“H.B.”) 9-B, codified at ch. 2023-5, Laws of Fla.

50. Among other things, this law replaces the District’s prior landowner-elected board with a Board appointed by the Governor, subject to Senate confirmation, and subject to limitations that ensure members’ independence from any “theme park or entertainment complex.” H.B. 9-B § 4(2)(c). The law also maintains the District’s authority to adopt planning, zoning, and other regulations while explicitly providing that any regulations “relating to safety, health, sanitation, or building safety shall prescribe standards at least equivalent to the minimum standards in applicable statewide regulations” such as the Florida Building Code and Florida Fire Prevention Code. *Id.* §§ 23(4)(b), (10). In short, H.B. 9-B provides public oversight for the

District and ensures that the same laws apply in the District as apply throughout the State of Florida.

51. Although H.B. 9-B was still under legislative consideration on February 8, 2023, when the development agreement was signed, the public policies that the law advances—public oversight and accountability—preexist this particular law. Indeed, H.B. 9-B came in the wake of Senate Bill (“S.B.”) 4-C, codified at ch. 2022-266, Laws of Fla., which had abolished any special district established by special act before the ratification of the Florida Constitution in 1968 and not reestablished afterwards. Moreover, H.B. 9-B has now been enacted and thus constitutes the public policy against which any attempted enforcement of the development agreement would be judged.

52. The Development Agreement contravenes H.B. 9-B in multiple ways.

53. In contravention of the District’s authority to “[r]egulate, restrict, and determine the ... height ... of buildings,” H.B. 9-B § 23(9)(a), and of the District’s explicit obligation to do so according to the standards of the Florida Building Code, *see id.* §§ 23(4)(b), (10), the development agreement gives Disney exclusive control over building heights in the covered property, which are otherwise controlled only by “the Federal Aviation Administration (FAA) height standards.”

54. In contravention of the District’s authority to “[r]egulate, restrict, and determine ... the density of population” and “the percentage and portion of lots and land that may be occupied or built on,” H.B. 9-B § 23(9)(a); *see also id.* § 23(7)(a), the development agreement grants to Disney—and to the exclusion of other District landowners—the right to all additional development in the District.

55. Under the development agreement, Disney may also obligate the District to construct public facilities (*e.g.*, roads), and even to purchase from Disney any lands that Disney owns and that are needed for such facilities. The development agreement restricts the District from reassessing the relative costs and benefits of any such facilities, in contravention not only of the District’s authority over the construction of roads and other public facilities, *see* H.B. 9-B § 8, but also of statutes encouraging or requiring such reassessment, *see* Fla. Stat. §§ 163.3191, .3177(3)(b).

56. The Legislature enacted H.B. 9-B to create a Board that would exercise meaningful public authority over the District, including over land development. But the

development agreement removes that authority by exempting a large swath of land from District regulation and transferring zoning authority over that land to a single private developer. The Development Agreement thereby contravenes H.B. 9-B., and It is therefore void as against public policy and unenforceable.

57. A contract contrary to a strong public policy against a particular practice is unconscionable and unenforceable.

58. Because the development agreement violates the public policies embodied in H.B. 9-B, it is also unconscionable and therefore unenforceable.

59. Independent of H.B. 9-B, however, the development agreement is both procedurally and substantively unconscionable.

60. Procedural unconscionability focuses on factors surrounding entering into the contract that add up to an absence of meaningful choice on the part of one of the parties to the terms of the contract. Indicators of procedural unconscionability include evidence of self-dealing and a lack of independent counsel for both parties.

61. The Board has been presented with substantial evidence of self-dealing and other indicia of procedural unconscionability. Due to the prior manner of electing Board members, where each District landowner was allowed one vote per acre of land owned in the District, Disney had effective control over Board membership. Records also suggest that, in at least some cases, Disney gave parcels of land to Board members on a temporary basis and for minimal consideration in order to satisfy the prior requirement that all Board members be District landowners. This self-dealing resulted in the substantively one-sided provisions of the development agreement discussed herein.

62. The District lacked independent counsel when entering the development agreement. The District's general counsel at that time also represented Disney in real estate and other matters at the time of his engagement in 2019, and his communications with Disney's counsel relating to the Development Agreement indicate a desire to maintain business with Disney.

63. Communications between the District's counsel and Disney's counsel also indicate that Disney drafted the development agreement but attempted to obscure this fact by naming the District's counsel as the drafter.

64. These communications further show that Disney’s counsel edited the text of the agenda item for the District’s January 25, 2023, meeting during which the District held its first hearing on the development agreement.

65. This evidence reflects a procedurally unconscionable attempt by Disney to arrogate authority to itself on the eve of H.B. 9-B’s enactment.

66. In contrast to procedural unconscionability, substantive unconscionability focuses on whether the terms of the contract itself are unreasonably favorable to the other party. Indicators of substantive unconscionability include the length of the benefit conferred on a party, and the gross disparity in the values exchanged. That last factor may be sufficient by itself for a finding of unconscionability.

67. The benefits of the development agreement are entirely one-sided. The development agreement entitles Disney to the exclusive use of future development rights in the District, delegates District zoning powers to Disney, and allows Disney to obligate the District to construct private facilities in aid of Disney’s development projects.

68. The District receives nothing in return. The only theoretical benefit to the District in the text of the development agreement is that, when Disney obligates the District to construct public facilities that require land that Disney owns, Disney will not “request payment for the land in excess of fair market value.” This benefit is illusory because the District has the power of eminent domain, meaning that it may take private property for public use and for just compensation. Because payment by the District of fair market value meets the full compensation requirement when it exercises its power of eminent domain, the development agreement does not provide the District any rights beyond what the District would have in the normal course.

69. These one-sided benefits are long-term. The development agreement lasts for 30 years. Although the statute allowing for development agreements allows such terms, this development agreement extends for twenty years beyond the joint comprehensive plan purportedly adopted in May 2022 and was entered just before the Florida Legislature passed H.B. 9-B to increase public oversight for the District through a newly appointed Board. In this context, the development agreement’s duration exacerbates the substantive unconscionability of its one-sided terms.

70. Because the development agreement is both procedurally and substantively unconscionable, it is void and unenforceable on this ground as well.

71. All contracts require “consideration,” meaning that the District (the promisor) must have received something in return from Disney (the promisee).

72. Consideration must be something more than what a party was already legally obliged to do.

73. The only purported consideration that Disney provided through the development agreement was its agreement to demand no more than fair market value for Disney-owned lands that the District might need for any public-facilities projects that Disney may obligate the District to undertake pursuant to the development agreement. But the District already has the power to take private lands for public projects and to pay only fair market value for those lands.

74. Because the development agreement lacks valid consideration, it is void and unenforceable.

75. Turning to the restrictive covenants, they depend upon the District choosing to enter the development agreement. For example, the restrictive covenants state “that, in furtherance of the Comprehensive Plan and the Development Agreement, ... and in consideration of the commitments made by [Disney] and its Affiliates under the Development Agreement, it is in the mutual interest of [the District] and [Disney]” to subject “the [District] Properties to this Declaration”. Because the restrictive covenants are dependent upon the development agreement, if the development agreement is invalid for any of the reasons explained above the restrictive covenants necessarily are invalid as well.

76. Additionally, contract principles apply to restrictive covenants.

77. Florida courts have long held that restrictive covenants are not enforceable against governmental units. Although these holdings have referred specifically to covenants between private parties, the same rationale applies here: the District could not contract away the authority of the current Board through restrictive covenants. Indeed, though Florida law allows local governments to enter development agreements in specified circumstances, these statutes do not provide for restrictive covenants.

78. Like the development agreement, the restrictive covenants contravene the authorities granted to the District by H.B. 9-B, and the public policy embodied by that law, in several ways.

79. Section 2.1 of the restrictive covenants restrict the District to using its property solely for those uses existing on February 8, 2023, or as contemplated by the amendments to the joint comprehensive plan purportedly adopted in May 2022.

80. Section 2.2 effectively enables Disney to censor the District, banning the District from speech on its own property about anything other than the District.

81. Section 3 prohibits the District from altering its own property without Disney's review and consent.

82. There is no public purpose for the restrictive covenants.

83. Moreover, the restrictive covenants are the product of the same self-dealing and absence of independent counsel, and thus bear the same indicia of procedural unconscionability, as the development agreement.

84. Drafting records also show that, as with the development agreement, Disney's counsel initially drafted the restrictive covenants but attempted to obscure that fact by listing the District's counsel as the drafter.

85. As with the development agreement, the benefits of the restrictive covenants are entirely one-sided. Disney receives the authority to limit the District's use of and speech on the District's own property, while the District receives no consideration in return. Just as these provisions violate public policy, they are substantively unconscionable.

86. Although the restrictive covenants constitute a distinct agreement, they do not even purport to have their own consideration. Rather, they simply refer to "the commitments made by [Disney] and its Affiliates under the Development Agreement."

87. The development agreement does not reference the restrictive covenants or contain any requirement that the District enter into them.

88. The development agreement had not been executed or approved at the time that the former Board voted to approve the restrictive covenants. A then-non-existent agreement cannot constitute consideration for the restrictive covenants.

89. There is no statute, code or regulation that contemplates local governments entering into restrictive covenants at the request of and for the benefit of a developer or private property owner. As already found above, those commitments did not constitute valid consideration for the development agreement. The restrictive covenants likewise lack valid consideration and are void and unenforceable.

90. Even if there were valid consideration for the development agreement, the restrictive covenants do not even purport to provide any additional, independent consideration to the District. They are therefore void and unenforceable.

91. The foregoing legislative findings are not intended to be exhaustive of the infirmities in the development agreement and restrictive covenants, nor are they intended to limit the District's counsel from pursuing any factual or legal theory relating to the development agreement and restrictive covenants.

92. Neither the development agreement nor the restrictive covenants are in the best interest of the District or the taxpayers or public, and the Board has no desire to readopt or ratify such instruments.

**PASSED AND DULY ADOPTED**, with a quorum present and voting, by the Board of Supervisors of the Central Florida Tourism Oversight District, this 26<sup>th</sup> day of April 2023.

**CENTRAL FLORIDA TOURISM OVERSIGHT DISTRICT**

By: \_\_\_\_\_  
Martin Garcia  
Chair of the Board of Supervisors

Attested:

By: \_\_\_\_\_  
John H. Classe, Jr.  
District Administrator and  
Secretary of the Board of Supervisors



# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 9.1

<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
Resolution No. 639 (Final Reading) – A RESOLUTION OF THE CENTRAL FLORIDA TOURISM OVERSIGHT DISTRICT AMENDING ARTICLE 6, CHAPTER 6-90 AND ARTICLE 7, CHAPTER 7-20 AND CHAPTER 7-30 OF THE RCID LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.	
<b>Requested Action</b>	
Read Resolution No. 639 by title, conduct a public hearing, approve Resolution No. 639 amending Article 6, Chapter 6-90 and Article 7, Chapter 7-20 and Chapter 7-30, and set April 26, 2023 as the second reading and public hearing on Resolution No. 639.	
<b>Staff Report</b>	
<p>The Central Florida Tourism Oversight District (“District”) exists pursuant its enabling act codified at Chapter 2023-5, Laws of Florida becoming effective on February 27, 2023 (the “Act”). Pursuant to the Act, the District has superior authority within the entire District, including within the jurisdictional limits of the City of Lake Buena Vista and the City of Bay Lake, for comprehensive planning, zoning, land development regulations, environmental protection regulations, and platting and subdivision regulations. The Act gives the District the authority to review, process, and comment on and approve, approve with conditions, or reject applications for development orders and building permits pertaining to properties within the entire District. Further, the Act requires that the District must exercise its authority set forth in the Act to adopt, amend, and enforce a comprehensive plan in accordance with the Community Planning Act, ss. 163.3161-163.3253, Florida Statutes, and adopt and enforce zoning regulations, land development regulations, environmental protection regulations, building and safety codes and regulations, platting and subdivision regulations, and fire prevention regulations governing the entire district, including within the city limits of any municipality within the District. The review and evaluation of applications for development orders and issuance of development orders is imperative for ensuring enforcement of such superior regulations adopted by the District.</p> <p>Based upon the Act, Resolution No. 639 proposes to amend the RCID Land Development Regulations to address the District’s superior authority and control, and authority to issue development orders within the District. Further, Resolution No. 639 amends the RCID Land Development Regulations to be consistent with the Board of Supervisors serving as the local planning agency and performing the duties of the Planning Board under the RCID Land Development Regulations. Further, Resolution No. 639 amends the notice procedures for amendments to the RCID Land Development Regulations consistent with the Act and establishes a process for proposed amendments to municipal land development regulations to ensure that</p>	

no conflicts arise between the District's land development regulation and the municipal land development regulations and that any proposed municipal amendments are more stringent than the District's regulations.

**Additional Analysis**

None

**Fiscal Impact Summary**

None

**Exhibits Attached**

1. Resolution No. 639

**RESOLUTION NO. 639**

**A RESOLUTION OF THE CENTRAL FLORIDA TOURISM OVERSIGHT DISTRICT AMENDING ARTICLE 6, CHAPTER 6-90 AND ARTICLE 7, CHAPTER 7-20 AND CHAPTER 7-30 OF THE RCID LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, the Central Florida Tourism Oversight District (“District”) exists pursuant its enabling act codified at Chapter 2023-5, Laws of Florida becoming effective on February 27, 2023 (the “Act”); and

**WHEREAS**, pursuant to the Act, the District has superior authority within the entire District, including within the jurisdictional limits of the City of Lake Buena Vista and the City of Bay Lake, for comprehensive planning, zoning, land development regulations, environmental protection regulations, and platting and subdivision regulations; and

**WHEREAS**, pursuant to the Act, the District’s comprehensive planning, zoning, land development regulations, environmental protection regulations, and platting and subdivision regulations shall control within the city limits of City of Lake Buena Vista and the City of Bay Lake to the extent of any conflict between the District’s resolutions and regulations on such matters; and

**WHEREAS**, the Act gives the District the authority to review, process, and comment on and approve, approve with conditions, or reject applications for development orders and building permits pertaining to properties within the District; and

**WHEREAS**, pursuant to the Act, the District must exercise its authority set forth in the Act to adopt, amend, and enforce a comprehensive plan in accordance with the Community Planning Act, ss. 163.3161-163.3253, Florida Statutes, and adopt and enforce zoning regulations, land development regulations, environmental protection regulations, building and safety codes and regulations, platting and subdivision regulations, and fire prevention regulations governing the entire district, including within the city limits of any municipality within the District; and

**WHEREAS**, based on the Act, the Board of Supervisors finds it necessary to amend the RCID Land Development Regulations to address the District’s superior authority and control and authority to issue development orders within the District; and

**WHEREAS**, the Act gives the Board of Supervisors the authority to determine the manner in which the RCID Land Development Regulations and other codes, regulations, and restrictions shall be determined, established, and enforced, and amended, supplemented, changed, or repealed; and

**WHEREAS**, the Board of Supervisors desire to amend the RCID Land Development Regulations in order to provide for the District Board of Supervisors to serve as the local planning agency and perform the duties of the Planning Board under the RCID Land Development Regulations; and

**WHEREAS**, the Board of Supervisors finds this Resolution to be in the best interest of the public health, safety and welfare and is consistent with the Act; and

**WHEREAS**, the Act requires a single reading and public hearing for a District resolution adopting regulations; however, the District has elected to conduct two readings and public hearings prior to the adoption of this Resolution; and

**WHEREAS**, both readings and public hearings on this Resolution were advertised in the Orlando Sentinel at least ten (10) days in advance of each reading and public hearing; and

**WHEREAS**, the District and its employees are directed to comply with this Resolution and take actions as needed to implement the purposes and intent of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED AND ORDAINED** by the Board of Supervisors of the Central Florida Tourism Oversight District, as follows:

**SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Resolution.

**SECTION 2. Amendment.** Article 7, Chapter 7-20 of the RCID Land Development Regulations are hereby amended to add a new Section 7-20.13 to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not being included are not being amended):

**Section 7-20.13 Superior Authority.** Pursuant to Chapter 2023-5, Laws of Florida, the Central Florida Tourism Oversight District's authority over comprehensive planning, zoning, land development regulations, environmental protection regulations, and platting and subdivision regulations shall control within the entire District, including within the jurisdictional limits of the City of Lake Buena Vista and the City of Bay Lake. The District is responsible for reviewing, processing, evaluating, commenting on and approving, approving with conditions or denying applications for development orders throughout the District, including within the jurisdictional limits of City of Lake Buena Vista and the City of Bay Lake. Pursuant to Chapter 2023-5, Laws of Florida, the City of Lake Buena Vista and City of Bay Lake shall not adopt land development regulations that are less stringent than or in conflict with the District's Land Development Regulations. The City of Lake Buena Vista and City of Bay Lake shall not accept applications for, consider for approval or issue any development orders or development permits, or approve or execute any development agreement regarding any development projects. To the extent the City of Lake Buena Vista or City of Bay Lake adopt more stringent comprehensive plan goals, objectives or policies or land development regulations applicable to lands within their respective jurisdictions, the District will consider and evaluate such matters in the processing, review, evaluation, commenting on and issuance of development orders pertaining to proposed development within such municipalities, if applicable.

**SECTION 3. Amendment.** Article 7, Chapter 7-30 of the RCID Land Development Regulations are hereby amended to delete Section 7-30.5 and Section 7-30.6 and to revise Section 7-30.2 to

read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not being included are not being amended):

**Section 7-30.2 Local Planning Agency.** ~~The Planning Board~~ Board of Supervisors of the District shall act as the "local planning agency" and perform those duties as set forth in Section 163.3174 Florida Statutes and the duties of the Planning Board as set forth in this Chapter. When the Board of Supervisors makes a decision pursuant to the duties of the Planning Board as set forth in these Land Development Regulations, the Board of Supervisors are the final decision-making authority for the District and no further administrative appeal is available. The Board of Supervisors may concurrently act in its role as both the local planning agency and governing body of the District when considering matters.

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~~**Section 7-30.5 Appointment of Members.** The membership of the Planning Board shall be five (5) members appointed by the Board of Supervisors. At all times, at least one (1) of the members must be professionally knowledgeable in the field of land use planning and regulations.~~

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~~**Section 7-30.6 Terms of Membership.** All appointments to the Planning Board are for a period of three (3) years.~~

**SECTION 4. Amendment.** Article 6, Chapter 6-90 of the RCID Land Development Regulations are hereby amended to revise Section 6-90.4 to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not being included are not being amended):

**Section 6-90.4 Notice.** ~~Notice shall be given in accordance with the provisions of Section 166.041 Florida Statutes and other applicable state laws.~~ (a) District. In accordance with Chapter 2023-05, Laws of Florida, a single reading and public hearing on a resolution proposing an amendment is required to amend the Land Development Regulations. A notice of intent to adopt a resolution proposing an amendment to the Land Development Regulations will be published in a newspaper of general circulation at least ten (10) days before the public hearing on such resolution. The Board of Supervisors may conduct a single public hearing on a resolution proposing amendments to the Land Development Regulations and serve in both its capacities as the local planning agency and the governing body of the District during such public hearing.

(b) City. For any proposed amendments to land development regulations within the City of Lake Buena Vista or City of Bay Lake, such cities will provide the District Board of Supervisors a copy of the proposed amendments at least sixty (60) days in advance of conducting the first reading and public hearing on an ordinance adopting such amendments along with a written summary of the purpose and intent of such proposed amendment and explaining why such amendments are more stringent than and not in conflict with the District's Land Development Regulations. As municipalities, the City of Lake Buena Vista and City of Bay Lake are required to comply with the notice and ordinance adoption procedures of Section 166.041, Florida Statutes for considering any amendments to land development regulations within their jurisdictions. Further, the City of Lake Buena Vista and City of Bay Lake are required to send to the District Board of Supervisors written notice of the time, date and place of the readings and public hearings on any

ordinance adopting changes to land development regulations at least fifteen (15) days in advance of such readings and public hearings.

**SECTION 5. Codification.** Sections 2, 3 and 4 of this Resolution shall be incorporated into the RCID Land Development Regulations. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this resolution or the Land Development Regulations may be freely made.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Resolution.

**SECTION 7. Conflicts.** In the event of a conflict or conflicts between this Resolution and any other resolution, ordinance/resolution or provision of law, this Resolution controls to the extent of the conflict, as allowable under the law. This Resolution shall apply to and be enforced throughout the unincorporated and incorporated areas of the Central Florida Tourism Oversight District, including within the jurisdictional boundaries of the City of Lake Buena Vista and City of Bay Lake.

**SECTION 8. Effective Date.** This Resolution shall become effective immediately upon adoption by the Board of Supervisors of the Central Florida Tourism Oversight District.

First reading held on April 19, 2023

Second reading held on April 26, 2023

**PASSED AND DULY ADOPTED**, with a quorum present and voting, by the Board of Supervisors of the Central Florida Tourism Oversight District, this 26<sup>th</sup> day of April 2023.

**CENTRAL FLORIDA TOURISM OVERSIGHT DISTRICT**

By: \_\_\_\_\_  
Martin Garcia  
Chair of the Board of Supervisors

Attested:

By: \_\_\_\_\_  
John H. Classe, Jr.  
District Administrator and  
Secretary of the Board of Supervisors

# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 9.2

<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
Resolution No. 640 - A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE CENTRAL FLORIDA TOURIST OVERSIGHT DISTRICT ADOPTING REGULATIONS PROHIBITING COVID-19 RESTRICTIONS AND MANDATES BY BUSINESSES WITHIN THE DISTRICT UPON THEIR CUSTOMERS OR PATRONS AND PROHIBITING COVID-19 RESTRICTIONS AND MANDATES REGARDING THE SERVICES AND OPERATIONS OF THE CENTRAL FLORIDA TOURIST OVERSIGHT DISTRICT; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.	
<b>Requested Action</b>	
Read by title and adopt Resolution No. 640.	
<b>Staff Report</b>	
<p>Resolution No. 640 provides that a business entity shall not require patrons or customers to provide any documentation certifying COVID-19 vaccination or post-infection recovery or impose a COVID-19 testing mandate to gain access to, entry upon, or service from the business entity's buildings and structures in the District, including within the incorporated areas of the District.</p> <p>Further, this resolution creates regulations governing the COVID policies of Contractors doing business with the District. A Contractor of the District may not require any employee or subcontractor to provide any documentation certifying a COVID-19 vaccination or post-infection recovery or impose a COVID-19 testing mandate. Further, a Contractor of the District may not refuse to hire or discharge a person, deprive or tend to deprive a person of employment opportunities, or adversely affect his or her status as an employee, or otherwise discriminate against a person with respect to compensation, terms, conditions, or privileges of employment based on the knowledge or belief of a person's COVID-19 vaccination status.</p> <p>The resolution also reiterates prior COVID-19 related rules adopted in Resolution No. 638 so that those rules are also set forth in Resolution No. 640. Resolution No. 640 is consistent with current statutes (Sec. 381.00316, Fla. Stat.) and pending legislation amending that statute.</p>	
<b>Additional Analysis</b>	
None	
<b>Fiscal Impact Summary</b>	
None	
<b>Exhibits Attached</b>	
1, Resolution No. 640	

**RESOLUTION NO. 640**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE CENTRAL FLORIDA TOURIST OVERSIGHT DISTRICT ADOPTING REGULATIONS PROHIBITING COVID-19 RESTRICTIONS AND MANDATES BY BUSINESSES WITHIN THE DISTRICT UPON THEIR CUSTOMERS OR PATRONS AND PROHIBITING COVID-19 RESTRICTIONS AND MANDATES REGARDING THE SERVICES AND OPERATIONS OF THE CENTRAL FLORIDA TOURIST OVERSIGHT DISTRICT; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, the Central Florida Tourism Oversight District (“District”) exists pursuant to its enabling act codified at Chapter 2023-5, Laws of Florida becoming effective on February 27, 2023 (the “Act”); and

**WHEREAS**, Section 7(2) of the Act authorizes the Board of Supervisors to “adopt administrative rules and regulations with respect to the conduct of the business of the district” and “any of the projects of the district, on proper notice and public hearing”; and

**WHEREAS**, Section 7(8) of the Act authorizes the Board of Supervisors to “adopt and enforce policies governing the solicitation and award of contracts entered into by the district”;

**WHEREAS**, Section 7(9) of the Act authorizes the Board of Supervisors to “adopt and enforce employment and personnel policies governing employees”; and

**WHEREAS**, Section 23(4) of the Act authorizes the Board of Supervisors to “adopt, amend, supplement, or repeal codes regulating building safety...the operation of amusement and recreation parks and facilities...and such other safety or sanitary codes as the board of supervisors may determine to be necessary”; and

**WHEREAS**, Section 23(4)(e) of the Act authorizes the Board of Supervisors to “Provide for the manner in which such...codes, regulations, and restrictions shall be determined,



established, and enforced, and amended, supplemented, changed, or repealed, as the board of supervisors may determine, with notice and public hearing as required by law; and

**WHEREAS**, Section 23(10) of the Act authorizes the Board of Supervisors to adopt regulations “relating to safety, health, sanitation, or building safety,” prescribing “standards at least equivalent to the minimum standards in applicable statewide regulations protecting the general safety and welfare of the public”; and

**WHEREAS**, Section 13 of the Act states, “The district shall have the power to exercise any of its rights, powers, privileges, and authorities in any and all portions of the district lying within the boundaries of Orange County, Osceola County, the City of Bay Lake, the City of Lake Buena Vista, and any other municipal corporation or other political subdivision, heretofore or hereafter created or organized, the boundaries of which lie wholly or partly within the geographic limits of the district, to the same extent and in the same manner as in areas of the district not incorporated as part of a county, municipality, or other political subdivision”; and

**WHEREAS**, the Board of Supervisors find and declare that society is harmed by discrimination based on COVID-19 vaccination status because healthy persons are deprived of participating in society and accessing goods, services and amusements; and

**WHEREAS**, the Act provides for regulations and codes of the District enacted pursuant to power and authority of the District are to be adopted by resolution of the Board of Supervisors upon a single reading and public meeting, with at least ten (10) days’ notice of an intent to adopt such resolution being published; and

**WHEREAS**, notice of intent to adopt this Resolution was published in the Orlando Sentinel on April 15, 2023 and a public hearing on this Resolution was held on April 26, 2023.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF  
THE CENTRAL FLORIDA TOURIST OVERSIGHT DISTRICT, THAT:**

**SECTION 1. RECITALS.** The foregoing recitals are incorporated herein by reference and made a part hereof.

**SECTION 2 - COVID-19 POLICIES GOVERNING EMPLOYEES OF THE  
DISTRICT.**

2.1 The District will not refuse to hire or discharge a person, deprive or tend to deprive a person of employment opportunities, or adversely affect his or her status as an employee, or otherwise discriminate against a person with respect to compensation, terms, conditions, or privileges of employment based on the knowledge or belief of a person's COVID-19 vaccination status.

2.2 No employee of the District shall be required to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose as a condition of employment with the District. This provision does not apply to, and is not meant to circumscribe the use of safety equipment required as part of the occupational, safety, training, and educational requirements of fire fighters, other emergency responders, personal protection for health care providers, or other District personnel.

2.3 The District may otherwise institute screening protocols consistent with authoritative or controlling government-issued guidance to protect public health.

**SECTION 3 – COVID-19 POLICIES GOVERNING BUILDINGS, FACILITIES,  
AND SERVICES OF THE DISTRICT**

3.1 No person shall be required to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose, or provide proof of COVID-19 vaccination status or a negative COVID-19 test in order to enter a buildings or facility of the District.

3.2 No person shall be denied access to services from, or otherwise face discrimination based on such person's refusal to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose, or refusal to provide proof of COVID-19 vaccination status or a negative COVID-19 test.

3.3 This Section does not apply to a facility of a health care provider or health care practitioner as those terms are defined in s. 408.833, Florida Statutes.

3.4 The District may otherwise institute screening protocols consistent with authoritative or controlling government-issued guidance to protect public health.

#### **SECTION 4 – COVID-19 POLICIES GOVERNING CONTRACTS AND PROJECTS OF THE DISTRICT.**

4.1 A Contractor of the District may not require any employee or subcontractor to provide any documentation certifying a COVID-19 vaccination or post-infection recovery or impose a COVID-19 testing mandate.

4.2 A Contractor of the District may not refuse to hire or discharge a person, deprive or tend to deprive a person of employment opportunities, or adversely affect his or her status as an employee, or otherwise discriminate against a person with respect to compensation, terms, conditions, or privileges of employment based on the knowledge or belief of a person's COVID-19 vaccination status.

4.3 A Contractor of the District may otherwise institute screening protocols consistent with authoritative or controlling government-issued guidance to protect public health.

4.4 Prospective Contractors of the District may be required to make certifications of compliance with this Section 4 before or concurrently with the execution of a purchase order, contract or agreement with the District.

4.5 A Contractor of the District who commits a violation of this Section 4 may be subject to termination of its purchase order, contract or agreement with the District subject to any required contractual notice and opportunity to cure, if applicable.

**SECTION 5 – COVID-19 POLICIES GOVERNING SAFETY AND SANITATION OF STRUCTURES IN WHICH PRIVATE BUSINESSES OPERATE IN THE DISTRICT**

5.1 The District finds that business entities that offer goods, services and amusement to members of the public at a business entity’s building(s) or structure(s) located within the District should not discriminate against patrons or customers based upon their personal health decisions and prevent such persons from gaining access to goods, services and amusements being offered. Further, such discriminatory practices are not necessary for the safety, health, and sanitation of the general population and are depriving healthy people from participating in society and accessing goods, services and amusements.

5.2 A business entity shall not require patrons or customers to provide any documentation certifying COVID-19 vaccination or post-infection recovery or impose a COVID-19 testing mandate to gain access to, entry upon, or service from the business entity’s buildings and structures in the District, including within the incorporated areas of the District. Each day that a business entity is in violation of this subsection 5.2 constitutes a separate violation. Each structure or building for which access to, entry upon or service is denied a patron or customer of a business entity constitutes a separate violation.

5.3 A business entity may otherwise institute screening protocols consistent with authoritative or controlling government-issued guidance to protect public health.

5.4 If a business entity violates this Section 5, the District shall have the right to take one or more of the following enforcement actions set forth in this subsection. For the first violation, the District will give the business entity at least fifteen (15) days written notice and an opportunity to cure the violation. The District will not be required to give the business entity any opportunity to cure before taking enforcement actions concerning repeat violations. If the violation is not timely corrected within the cure period given or upon notice of a violation for a repeat violation, the District may impose a \$250.00 civil fine per each violation, with each day a violation occurs or exists constituting a separate violation. In addition to and without limiting the foregoing, if the violation is not corrected within ninety (90) days after the expiration of the cure period given or upon notice of violation for a repeat violation, the District may: (i) revoke the certificate(s) of occupancy for any structure or building for which the business entity is requiring patrons or customers to provide any documentation certifying COVID-19 vaccination or post-infection recovery or impose a COVID-19 testing mandate to gain access to, entry upon, or service, and require the business entity to vacate and not use such structures or building for any human habitation or use, subject to limited personnel for security and fire protection of the structures and buildings and the premises thereof; (ii) withhold issuance of any new building permit or certificate of occupancy being requested by the business entity concerning any structure or building anywhere in the District until the violation is cured; (iii) file and prosecute an action at law or in equity in a court of proper jurisdiction to enforce this Section, including without limitation, the collection of civil fines imposed and obtain injunctive relief to prevent violations; and/or (iv) any combination thereof.

5.5 A business entity receiving a violation under this Section may contest any violation and fine and/or enforcement penalty imposed for such violation to the Board of Supervisors or its designated special magistrate by filing a written notice of appeal and along with a written basis of such appeal with the Clerk of the Board and District Administrator within fifteen (15) days of receiving a notice of violation. Thereafter, a *de novo* quasi-judicial public hearing on the appeal will be conducted as soon as practicable. The decision of the Board of Supervisors or its designated special magistrate on the appeal will constitute the final decision of the District. The final decision of the District is subject to a timely challenge in the circuit court filed within thirty (30) days of the written rendition of such decision. The District may adopt additional procedures for appeal hearings via separate resolutions or regulations.

#### **SECTION 6. DEFINITIONS.**

For purposes of this Resolution, the words defined below have the meanings given:

- (1) "Business entity" has the same meaning as in Section 606.03, Florida Statutes.
- (2) "Contractor" means any person or entity under purchase order, contract or agreement with the District to provide goods, materials, equipment or services to the District, except for (i) federal, state or local governmental entities and agencies, (ii) a health care practitioner, and (iii) a health care provider.
- (3) "COVID-19" means the novel coronavirus identified as 182 SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom;
- (4) "Facial covering" means a cloth or surgical face mask, a face shield, or any other facial covering that covers the mouth and nose.

(5) "Health care practitioner" has the same meaning as in s. 456.001, Florida Statutes. The term does not include a health care practitioner who is employed by a health care provider.

(6) "Health care provider" means a health care provider as defined in s. 408.07, Florida Statutes; a service provider licensed or certified under s. 393.17, part III of chapter 401, or part IV of chapter 468; or a provider with an active health care clinic exemption under s. 400.9935.

**SECTION 7. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, word or provision of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Resolution.

**SECTION 8. CONFLICTS.** Sections 2 through 6 of this Resolution shall constitute regulations of the Central Florida Tourism Oversight District with the full weight, authority and force of law. In the event of a conflict or conflicts between this Resolution and any other resolution, ordinance/resolution or provision of law, this Resolution controls to the extent of the conflict, as allowable under the law. This Resolution shall apply to and be enforced throughout the unincorporated and incorporated areas of the Central Florida Tourism Oversight District, including within the jurisdictional boundaries of the City of Lake Buena Vista and City of Bay Lake.

**SECTION 9. EFFECTIVE DATE.** This Resolution will take effect immediately upon its adoption.

**ADOPTED** at a regular meeting of the Board of Supervisors of the Central Florida Tourist Oversight District, held on this 26th day of April, 2023.

**CENTRAL FLORIDA TOURIST  
OVERSIGHT DISTRICT**

[SEAL]

By: \_\_\_\_\_  
Martin Garcia, Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Tina Graham, District Clerk

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# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 10.1

Page 1 of 1

<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
Special Advisor to the Board and District Administrator Position	
<b>Requested Action</b>	
Approve the position of the Special Advisory to the Board of Supervisors, approve the job description for the District Administrator, and establish a procedure to fill the position.	
<b>Staff Report</b>	
None	
<b>Additional Analysis</b>	
None	
<b>Fiscal Impact Summary</b>	
None	
<b>Exhibits Attached</b>	
<ol style="list-style-type: none"><li>1. District Administrator Original Job Description</li><li>2. District Administrator Revised Job Description – provided at the April 19, 2023 BOS meeting</li><li>3. District Administrator Revised Job Description (2023-04-25)</li></ol>	



## POSITION DESCRIPTION

**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** President, Board of Supervisors

**Job Code:** Ex-102-015

### Position Summary:

Perform functions to serve as CEO of the District, providing operational and financial stewardship for taxpayers. Direct and coordinate the work of division heads in order to ensure that the District meets its fiscal and fiduciary responsibilities and objectives.

### Essential Functions:

- Direct the strategic planning for overall District operations and present the Strategic Plan to the Board of Supervisors for review and authorization.
- Serve as the Executive Liaison to the primary taxpayer, Board of Supervisors, and all stakeholders of the District to build on and maintain effective working relationships.
- Serve as City Manager for either the City of Bay Lake or the City of Lake Buena Vista and Secretary of the Board of Supervisors, carrying out the fiduciary responsibilities of each entity.
- Direct Executive Leadership and the Management Team through the planning, management and controlling of their respective responsibilities. Monitor and provide guidance on recommended new or modified District policy for any operating area and for the Division as a whole. Review operations of each functional area through Executive Leadership and provide information as requested and in reporting sessions to the Board of Supervisors as to the status of operations.
- Represent the District in relationships with other government agencies and regulatory bodies, including cities, counties, state, and federal governments and related agencies working under the direction of those governments. Work with other government agencies to join in on lobbying efforts as required to communicate and forward the position of the District in the interests of its stakeholders. Oversee and protect the interest of District stakeholders in contractual arrangements with other governmental entities for services.
- Serve as a member of the RCID Audit Committee and maintain current awareness of the status of the District's continual audit readiness.
- Interview, select, recommend hire, train and assign team members. Provide direction and mentoring, develop and communicate performance metrics to assess the effectiveness of teams, both as a department and individually. Evaluate performance and provide counseling, cross training and coaching to employees. Maintain harmonious team/employer relations. Develop and implement staffing plans and related budgets as required.



## POSITION DESCRIPTION

**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** President, Board of Supervisors

**Job Code:** Ex-102-015

### Other Duties:

- Perform or assist with any operations, as required to maintain workflow and to meet schedules and quality requirements.
- Participate in any variety of meetings and work groups to integrate activities, communicate issues, obtain approvals, resolve problems and maintain specified level of knowledge pertaining to new developments, requirements, and policies.
- Perform other related duties as assigned.

### Competency:

- Excellent leadership skills. Highly refined interpersonal skills, as well as the ability to communicate publicly.
- Financial acumen with experience managing and developing complex budgets.
- Knowledge of business and government administration.
- A well-developed sense of strategic timing and ability to accurately infer intent of subtle circumstances.
- Computer skills with knowledge of Microsoft Suite programs.

### Education/Experience Requirements:

- Bachelor's degree in Business, Finance, Public Administration, Engineering, Science or closely related field.
- Sixteen to twenty years in a senior leadership capacity.
- Regular, dependable attendance required.

### Other Requirements:

The following requirements are representative of those that must be met by an employee to successfully perform the essential functions of this job and is not intended to be inclusive. Reasonable accommodation(s) may be made to enable individuals with disabilities, as defined by law, to perform any essential functions.

### Driving Requirements:



Since 1967  
**Reedy Creek**  
IMPROVEMENT DISTRICT

## POSITION DESCRIPTION

**Status:** Exempt

**Job Code:** Ex-102-015

**Title:** District Administrator

**Department:** Administration

**Reports to:** President, Board of Supervisors

Must possess a valid Florida State Driver's license and maintain eligibility under the District's commercial vehicle program.

### **Physical Demands:**

While engaging in the duties of this position the Employee performs lifting and/or carrying of up to 20 lbs. Employee sits frequently. Employee stands and walks occasionally. Employee occasionally bends/stoops/crouches, pushes/pulls and climbs. Employee uses their hand(s)/arm(s) to reach in any direction and seize, grasp, hold and turn object using hand(s). Employee uses fingers, versus whole hand, to pick, pinch and feel objects. Employee sees, talk and hear as they communicate with others in person, electronically or by phone.

Employee will operate motor vehicle(s) that involve the use of hand/foot controls.

**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** Board of Supervisors

**Job Code:** Ex-102-015

**Position Summary:**

Perform functions to serve as CEO of the District, providing operational and financial stewardship for taxpayers. Direct and coordinate the work of division heads in order to ensure that the District meets its fiscal and fiduciary responsibilities and objectives.

**Essential Functions:**

- Direct the strategic planning for overall District operations and present the Strategic Plan to the Board of Supervisors for review and authorization.
- Serve as the Executive Liaison to taxpayers, Board of Supervisors, and all stakeholders of the District to build on and maintain effective working relationships.
- Serve as City Manager for either the City of Bay Lake or the City of Lake Buena Vista and Secretary of the Board of Supervisors, carrying out the fiduciary responsibilities of each entity.
- Direct Executive Leadership and the Management Team through the planning, management and controlling of their respective responsibilities. Monitor and provide guidance on recommended new or modified District policy for any operating area and for the Division as a whole. Review operations of each functional area through Executive Leadership and provide information as requested and in reporting sessions to the Board of Supervisors as to the status of operations.
- Represent the District in relationships with other government agencies and regulatory bodies, including cities, counties, state, and federal governments and related agencies working under the direction of those governments. Work with other government agencies to join in on lobbying efforts as required to communicate and forward the position of the District in the interests of its stakeholders. Oversee and protect the interest of District stakeholders in contractual arrangements with other governmental entities for services.
- Serve as a member of the RCID Audit Committee and maintain current awareness of the status of the District's continual audit readiness.
- Interview, select, recommend hire, train and assign team members. Provide direction and mentoring, develop and communicate performance metrics to assess the effectiveness of teams, both as a department and individually. Evaluate performance and provide counseling, cross training and coaching to employees. Maintain harmonious team/employer relations. Develop and implement staffing plans and related budgets as required.

**Other Duties:**

- Perform or assist with any operations, as required to maintain workflow and to meet schedules and quality requirements.

**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** Board of Supervisors

**Job Code:** Ex-102-015

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- ~~Serve as a member of the RCID Audit Committee and~~ maintain current awareness of the status of the District's continual audit readiness.
- Interview, select, recommend hire, train and assign team members. Provide direction and mentoring, develop and communicate performance metrics to assess the effectiveness of teams, both as a department and individually. Evaluate performance and provide counseling, cross training and coaching to employees. Maintain harmonious team/employer relations. Develop and implement staffing plans and related budgets as required.

**Other Duties:**

- Perform or assist with any operations, as required to maintain workflow and to meet schedules and quality requirements.

**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** Board of Supervisors

**Job Code:** Ex-102-015

- Participate in any variety of meetings and work groups to integrate activities, communicate issues, obtain approvals, resolve problems and maintain specified level of knowledge pertaining to new developments, requirements, and policies.
- Perform other related duties as assigned.

**Competency:**

- Excellent leadership skills. Highly refined interpersonal skills, as well as the ability to communicate publicly.
- Financial acumen with experience managing and developing complex budgets.
- Knowledge of business and government administration.
- A well-developed sense of strategic timing and ability to accurately infer intent of subtle circumstances.
- Computer skills with knowledge of Microsoft Suite programs.

**Education/Experience Requirements:**

- Bachelor's degree in Business, Finance, Public Administration, Engineering, Science or closely related field.
- Five to ten years in a senior leadership capacity.
- Regular, dependable attendance required.

**Other Requirements:**

The following requirements are representative of those that must be met by an employee to successfully perform the essential functions of this job and is not intended to be inclusive. Reasonable accommodation(s) may be made to enable individuals with disabilities, as defined by law, to perform any essential functions.

**Driving Requirements:**

Must possess a valid Florida State Driver's license and maintain eligibility under the District's commercial vehicle program.

**Physical Demands:**

While engaging in the duties of this position the Employee performs lifting and/or carrying of up to 20 lbs. Employee sits frequently. Employee stands and walks occasionally. Employee occasionally bends/stoops/crouches, pushes/pulls and climbs. Employee uses their hand(s)/arm(s) to reach in any direction and seize, grasp, hold and turn object using hand(s). Employee uses fingers, versus whole hand, to pick, pinch and feel objects. Employee sees, talk and hear as they communicate with others in person, electronically or by phone.

**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** Board of Supervisors

**Job Code:** Ex-102-015

Employee will operate motor vehicle(s) that involve the use of hand/foot controls.



**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** Board of Supervisors

**Job Code:** Ex-102-015

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**Status:** Exempt  
**Title:** District Administrator  
**Department:** Administration  
**Reports to:** Board of Supervisors

**Job Code:** Ex-102-015

Employee will operate motor vehicle(s) that involve the use of hand/foot controls.

# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 10.2

Page 1 of 1

<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
General Counsel Position	
<b>Requested Action</b>	
Approve the job description for the District General Counsel, and establish a procedure to fill the position.	
<b>Staff Report</b>	
None	
<b>Additional Analysis</b>	
None	
<b>Fiscal Impact Summary</b>	
None	
<b>Exhibits Attached</b>	
<ol style="list-style-type: none"><li>1. General Counsel Job Description Original Job Description</li><li>2. General Counsel Job Description Job Description – provided at the April 19, 2023 BOS meeting</li></ol>	

## General Counsel Job Description

Job Title: District General Counsel

Location: Central Florida Tourism Oversight District

Salary: Commensurate with experience and qualifications

Job Description:

The District General Counsel is responsible for providing legal advice, guidance, and representation to the Central Florida Tourism Oversight District, the Board of Supervisors, District Administrator, and all District departments on various legal matters related to the District's enabling act and laws applicable to the District. The District General Counsel will be the chief legal advisor to the District and will provide legal representation for the District in litigation, administrative hearings, and other legal proceedings except as such matters may be assigned to outside counsel. The District General Counsel is hired and terminated by the Board of Supervisors.

Responsibilities:

- Provide legal advice and guidance to the Board, District Administrator, and all District departments on various legal matters related to the District, including but not limited to land use and zoning, contracts, employment law, public records, public meetings, and ethics.
- Draft and review resolutions, contracts, and other legal documents for compliance with state and federal laws and regulations.
- Represent the District in legal proceedings, including litigation, administrative hearings, and appeals.
- Attend and provide legal counsel at District Board meetings, public hearings, and other public meetings.
- Advise District staff on legal issues related to procurement, bid protests, and other contractual matters.
- Manage outside counsel when necessary and ensure quality legal representation for the District.
- Monitor legislative developments and advise the District on the impact of proposed legislation on District operations.
- Advise the District on risk management issues and develop strategies to minimize the District's exposure to legal liability.

- Perform other legal duties as assigned by the Board of Supervisors or District Administrator.

Qualifications:

- Juris Doctorate degree from an accredited law school.
- Admission to the Florida Bar and in good standing.
- At least 10 years of experience practicing local government law, municipal law or a related field and serving as the lead County Attorney, City Attorney or General Counsel for a Florida local governmental entity.
- The Florida Bar Board Certified in City, County, Local Government Law.
- Expertise and knowledge of Florida local government law, including but not limited to comprehensive planning, land use and zoning, subdivision and platting, quasi-judicial procedures, review of applications for development orders, development agreements, real estate transactions, utility easements, drainage easements and other easements, Sunshine law, public records, public meetings, ethics, contracts, public procurement, acquisition of right-of-way and other public lands, eminent domain, inverse condemnation, Bert J. Harris Private Property Rights Act and Florida Land Use and Environmental Dispute Resolution Act.
- A working knowledge and understanding the District's enabling act set forth in Chapter 2023-05, Laws of Florida, and of the charters/enabling acts creating the municipalities within the District.
- Ability to provide effective legal counsel to the Board, District Administrator, and all District departments.
- Strong legal research, writing, and analytical skills.
- Excellent communication and interpersonal skills.
- Ability to work collaboratively with District staff, outside counsel, and other stakeholders.
- Ability to manage multiple projects and prioritize workload.
- Ability to present and argue cases in court.
- Strong work ethic and attention to detail.

## General Counsel Job Description

Job Title: District General Counsel

Location: Central Florida Tourism Oversight District, District Administration Building

Salary: Commensurate with experience and qualifications

Job Description:

The District General Counsel is responsible for providing legal advice, guidance, and representation to the Central Florida Tourism Oversight District, the Board of Supervisors, District Administrator, and all District departments on various legal matters related to the District's enabling act and laws applicable to the District. The District General Counsel will be the chief legal advisor to the District and will oversee legal representation for the District in litigation, administrative hearings, and other legal proceedings except as such matters may be assigned to outside counsel. The District General Counsel is hired and terminated by the Board of Supervisors.

Responsibilities:

- Provide legal advice and guidance to the Board, District Administrator, and all District departments on various legal matters related to the District, including but not limited to land use and zoning, contracts, employment law, public records, public meetings, and ethics.
- Draft and review resolutions, contracts, and other legal documents for compliance with state and federal laws and regulations.
- Supervise legal representation of the District in legal proceedings, including litigation, administrative hearings, and appeals.
- Attend and provide legal counsel at District Board meetings, public hearings, and other public meetings.
- Advise District staff on legal issues related to procurement, bid protests, and other contractual matters.
- Manage and provide direction to outside counsel when necessary and ensure quality legal representation for the District.
- Monitor legislative developments and advise the District on the impact of proposed legislation on District operations.
- Advise the District on risk management issues and develop strategies to minimize the District's exposure to legal liability.
- Perform other legal duties as assigned by the Board of Supervisors.

- Serve as the Chief Ethics Officer for the Board of Supervisors and the District.

Requirements:

- Juris Doctorate degree from an accredited law school.
- A Florida licensed attorney, and a member of the Florida Bar in good standing.

Preferred Professional Experience:

- Experience representing government entities.
- Ability to provide effective legal counsel to the Board, District Administrator, and all District departments.
- Strong legal research, writing, and analytical skills.
- Excellent communication and interpersonal skills.
- Ability to work collaboratively with District staff, outside counsel, and other stakeholders.
- Ability to manage multiple projects and prioritize workload.
- Strong work ethic and attention to detail.
- A willingness to obtain advanced education and certifications, including board certifications, in relevant areas of legal practice, such as Labor and Employment Law, City, County, Local Government Law, Land Use Law, Real Estate Law, Construction Law and others.
- Working knowledge of Florida local government law, the Sunshine law, public records, public meetings, ethics, contracts, construction, and other pertinent areas of Florida law.
- A working knowledge and understanding the District's enabling act set forth in Chapter 2023-05, Laws of Florida, and of the charters/enabling acts creating the municipalities within the District.

# Central Florida Tourism Oversight District

## Board of Supervisors

### Agenda Item 10.3

Page 1 of 1

<b>Meeting Date</b>	
April 26, 2023	
<b>Agenda Item Name</b>	
District Clerk Position	
<b>Requested Action</b>	
Approve the job description for the District Clerk and establish a procedure to fill the position.	
<b>Staff Report</b>	
None	
<b>Additional Analysis</b>	
None	
<b>Fiscal Impact Summary</b>	
None	
<b>Exhibits Attached</b>	
1. Executive Assistant – District Clerk Original Job Description	





## POSITION DESCRIPTION

**Status:** Nonexempt **Job Code:** N-102-012  
**Title:** Executive Assistant – District Clerk  
**Department:** District Administration  
**Reports to:** District Administrator

### Position Summary:

Perform functions to provide administrative support to the District Administrator. Serve as District Clerk to the Board of Supervisors (BOS) for all Board related activities, working within the limits of standard or accepted practice.

### Essential Functions:

- Serve as District Clerk for BOS. Prepare agendas and legal ads, and assemble meeting documents for Agenda Review and BOS meetings. Attend Agenda Review and BOS meetings, take minutes at BOS meetings, and file minutes as required. Provide BOS members with agendas and presentation materials. Prepare quarterly expense reports for BOS members' mileage reimbursement.
- Obtains signatures on all official documents and serves as custodian of all District BOS records.
- Supervises and coordinates District elections and the annual Landowner Meeting.
- Provide administrative support to the District Administrator and BOS members as required.
- Act as the first point of contact for the District Administrator. Maintain positive relationships with personnel, visitors, and contacts.
- Provide assistance as backup to Assistants in other departments located in the District Administration Building, as requested.
- Monitor the office supplies for the District Administration office and order replacements as needed.
- Serve as Assistant City Clerk for Lake Buena Vista and Bay Lake in absence of City Clerk for City Council meetings.
- Maintain the calendars for District Administration. Develop itineraries and agenda, schedule travel, book transportation, and arrange lodging and meeting accommodations for District Administration or for special guests.
- Expedite forms, related to the Board of Supervisors, to be filed with the State of Florida as required, remain aware of deadlines.
- Maintain the District Administration office electronic and hardcopy files.



## POSITION DESCRIPTION

**Status:** Nonexempt

**Job Code:** N-102-012

**Title:** Executive Assistant – District Clerk

**Department:** District Administration

**Reports to:** District Administrator

- Manage the Boardroom and District Administration office conference room schedule for meetings.
- Coordinate the planning of Board of Supervisor holiday parties and events.

### **Other Duties:**

- Perform or assist with any operations, as required to maintain workflow and to meet schedules and quality requirements.
- Participate in any variety of meetings and work groups to integrate activities, communicate issues, obtain approvals, resolve problems and maintain specified level of knowledge pertaining to new developments, requirements, and policies.
- Attend and participate in occasional evening meetings or events outside of regular business hours.
- Perform other related duties as assigned.

### **Competency:**

- Computer proficient with knowledge of MS Word, Excel, PowerPoint, and Outlook.
- Ability to multi-task a variety of projects at any given time.
- Effective communication skills in both verbal and written form.
- Highly adaptable; demonstrates flexibility and a positive demeanor in the face of conflicting priorities.
- Highly effective communicator; understands the importance of listening, speaks with confidence using clear, concise sentences and is easily understood, produces well thought-out professional correspondence free of grammatical and spelling errors and projects a positive image of the business through the use of professional oral and writing skills.
- Demonstrates exceptional time and task management skills, and proficiency in Microsoft Office Suite components.
- Demonstrates the ability to foresee problems and prevent them by utilizing analytical skills and a broad understanding of the business to effectively interpret and anticipate action to be taken.



## POSITION DESCRIPTION

**Status:** Nonexempt

**Job Code:** N-102-012

**Title:** Executive Assistant – District Clerk

**Department:** District Administration

**Reports to:** District Administrator

- Consistently exhibits sound integrity and judgment with the ability to make reasoned decisions in the absence of direction.

### **Education/Experience Requirements:**

- Associate's degree in a Business discipline, or equivalent preferred, with knowledge of office routines, general business, and related processes and procedures required; or two additional years of related experience to substitute education.
- Knowledge of organization, function and activities of local government. Knowledge of state and local laws and ability to interpret such. Knowledge of municipal codes and ordinance.
- Public Notary.
- Minimum of ten years of progressive experience in administrative assistance and clerical support, with at least five years of experience directly supporting executive level management.
- Experience as a Special District, County or City Clerk or similar role preferred.
- Regular, dependable attendance required.

### **Other Requirements:**

The following requirements are representative of those that must be met by an employee to successfully perform the essential functions of this job and is not intended to be inclusive. Reasonable accommodation(s) may be made to enable individuals with disabilities, as defined by law, to perform any essential functions.

### **Driving Requirements:**

Must possess a valid Florida State Driver's license and maintain eligibility under the District's commercial vehicle program.

### **Physical Demands:**

While engaging in the duties of this position the Employee performs lifting and/or carrying of up to 50 lbs. occasionally and 10 lbs. frequently. Employee sits constantly. Employee stands and walks occasionally. Employee occasionally bends/stoops/crouches and pushes/pulls. Employee uses their hand(s)/arm(s) to reach in any direction and seize, grasp, hold and turn object using hand(s). Employee uses fingers, versus whole hand, to pick, pinch and feel objects. Employee sees, talk and hear as they communicate with others in person, electronically or by phone.



Since 1967  
**Reedy Creek**  
IMPROVEMENT DISTRICT

## POSITION DESCRIPTION

**Status:** Nonexempt  
**Title:** Executive Assistant – District Clerk  
**Department:** District Administration  
**Reports to:** District Administrator

**Job Code:** N-102-012

Employee will operate motor vehicle(s) that involve the use of hand/foot controls.