

BEFORE THE CITY COMMISSION OF THE
CITY OF HAINES CITY, FLORIDA

IN RE: PETITION TO ESTABLISH THE)
 WHITE CLAY COMMUNITY)
 DEVELOPMENT DISTRICT)

AFFIDAVIT ADOPTING WRITTEN, PRE-FILED TESTIMONY

STATE OF FLORIDA
COUNTY OF ORANGE

I, Reinardo (Rey) Malave, P.E., being first duly sworn, do hereby state for my affidavit as follows:

1. I have personal knowledge of the matters set forth in this affidavit.
2. My name Reinardo (Rey) Malave, P.E., and I am employed by Dewberry Engineers Inc. as an Associate Vice President and Department Manager, Water Service Line & Engineering.
3. The prepared written pre-filed testimony consisting of nine (9) pages, submitted under my name to the City Commission of the City of Haines City, Florida relating to the Second Amended Petition to Establish White Clay Community Development District and attached hereto, is true and correct.
4. If I were asked the questions contained in the pre-filed testimony orally at the White Clay Community Development District establishment hearing, my oral answers would be the same as the written answers presented in my pre-filed testimony.
5. My credentials, experience, and qualifications concerning land development and the construction of public infrastructure as a professional engineer and related matters are accurately set forth in my pre-filed testimony.

6. My pre-filed testimony generally addresses the nature of the proposed development plan of public infrastructure of the White Clay Community Development District.

7. No corrections or amendments to my pre-filed testimony or the Petition and its exhibits are required.

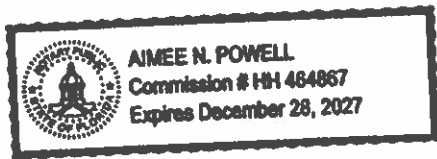
Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.


Executed this 17 day of January, 2024.


Reinardo Malave, P.E.

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 17th of January 2024, by Reinardo Malave, P.E., who is personally known to me or who has produced _____ as identification.




(Official Notary Signature & Seal)
Name: Aimee N. Powell
Personally Known
OR Produced Identification _____
Type of Identification _____

1 **TESTIMONY OF REINARDO “REY” MALAVE, P.E., FOR ESTABLISHMENT OF**
2 **WHITE CLAY COMMUNITY DEVELOPMENT DISTRICT**

3
4 **1. Please state your name and business address.**

5
6 My name is Reinardo “Rey” Malave, P.E., and my business address is 800 N. Magnolia
7 Avenue, Orlando, Florida 32803.

8
9 **2. By whom are you employed and in what capacity?**

10
11 I am Associate Vice President and Department Manager, Water Service Line &
12 Engineering of Dewberry Engineers Inc.

13
14 **3. How long have you been in the engineering field?**

15
16 44 years.

17
18 **4. Does your firm, Dewberry Engineers Inc. represent CH Dev, LLC?**

19
20 Yes. My firm serves as Consulting Engineer.

21
22 **5. Please give your educational background, with degrees earned, major areas of study**
23 **and institutions attended.**

24
25 BSCE – University of Puerto Rico 1978
26 MBA – Keller School of Management – DeVry University

27
28 **6. Do you have any professional licenses, registrations, or certifications?**

29
30 I hold a license as a Professional Engineer in the State of Florida.

31
32 **7. Are you a member of any professional associations?**

33
34 FES, ASCE, NSPE, FL AWWA.

35
36 **8. Please summarize your previous experience as it relates to public facility design and**
37 **construction and land development and planning.**

38
39 I have over 44 years of Civil Engineering experience. I am a project manager for large
40 master planned communities, large and small residential developments, commercial and
41 office developments, municipal roadways and recreation projects. I have assisted in the
42 development of more than 10 CDD communities as well as manage numerous projects
43 throughout Florida.

44
45
46 **9. Are you familiar with the Petition (“Petition”) filed by CH Dev, LLC (“Petitioner”)**

1 on November 21, 2023, as amended on December 4, 2023 and January 17, 2024,
2 seeking the establishment of White Clay Community Development District
3 (“proposed District”)?
4

5 Yes. I assisted the Petitioner with the preparation of some of the exhibits filed with the
6 Petition and reviewed others, including in all amendments to the Petition submitted to the
7 City and related thereto.
8

9 **10. Have you been involved in any developments of the type and nature similar to those**
10 **in the proposed White Clay Community Development District (“District”)?**
11

12 Yes. I have been involved in several developments that contain similar necessary public
13 infrastructure facilities utilizing my expertise in the design, permitting, and construction of
14 similar systems.
15

16 **11. Are you familiar with those parcels of land proposed to be included in the District**
17 **that are located within the City?**
18

19 Yes, I am.
20

21 **12. Are you generally familiar with the geographical area, type, and scope of development**
22 **and the available services and facilities in the vicinity of the proposed District?**
23

24 Yes, I am.
25

26 **13. What has been your role with respect to the proposed District’s establishment**
27 **proceeding?**
28

29 I prepared, or had prepared under my supervision, the engineering exhibits included in the
30 Petition, along with the estimated costs of construction and future ownership and
31 maintenance exhibit to the Petition, including in all amendments to the Petition submitted
32 to the City.
33

34 **14. Have you reviewed the Petition and approved its contents?**
35

36 Yes, I have.
37

38 **15. Did you prepare, or have others prepare under your supervision prepare, any of the**
39 **exhibits attached to the Petition?**
40

41 Yes, Exhibits 1, 2, 4, 5, 6, and Composite Exhibit 7 were prepared by me or under my
42 supervision, including in all amendments to the Petition submitted to the City and related
43 thereto.
44

45 **16. Do any of those exhibits require any change or correction?**
46

1 No changes or corrections are required.
2

3 **17. To the best of your knowledge, are Exhibits 1, 2, 4, 5, 6, and Composite Exhibit 7 to**
4 **the Petition true and correct?**

5
6 Yes, to the best of my knowledge.
7

8 **18. In general, what do Exhibits 1, 2, 4, 5, 6, and 7 to the Petition demonstrate?**
9

10 These exhibits demonstrate the general location and nature of the proposed improvements,
11 as well as legal descriptions of the proposed District boundaries. They also describe the
12 types of facilities, future ownership, operation and maintenance, construction timelines,
13 and the estimated costs of construction.
14

15 **19. Would you generally describe the services and facilities that the proposed District is**
16 **expected to provide?**

17
18 The Petitioner presently intends for the proposed District to participate in the acquisition
19 or construction of a stormwater management system, roadway improvements, water and
20 sewer systems, roadways, recreation facilities, and landscaping improvements, along with
21 other public improvements.
22

23 **20. Are the construction cost estimates for the proposed facilities, as identified in Exhibit**
24 **7 for the Proposed District reasonable?**

25
26 Yes, I have reviewed the construction cost estimates and, to the best of my knowledge,
27 information and belief and based on the information available, the construction cost
28 estimates for the proposed District improvements are reasonable based on my experience
29 and knowledge of the local construction industry.
30

31 **21. Based upon your training and experience as a professional engineer, do you have an**
32 **opinion as to whether the proposed District is of sufficient size, sufficient**
33 **compactness, and sufficient contiguity to be developed as a functional interrelated**
34 **community?**

35
36 Yes, I do have an opinion.
37

38 **22. What is your opinion?**
39

40 My opinion is that it meets the indicated requirements to be a functional interrelated
41 community because it has sufficient size, sufficient compactness and sufficient contiguity.
42

43
44 **23. What is the basis for your opinion?**
45

46 For many reasons, the proposed District facilities can be provided in an efficient, functional

1 and integrated manner. First, the lands to be included within the proposed District have
2 sufficient significant infrastructure needs to be developable as a functionally interrelated
3 community. Second, this necessary infrastructure can be provided by the proposed District
4 in a cost effective manner based upon the specific design of the community. Furthermore,
5 the use of one development plan whose infrastructure is implemented by a community
6 development district (“CDD”) to provide the community services and facilities will ensure
7 that the proposed improvements are provided and maintained in an efficient, functional and
8 integrated manner.
9

10 **24. As a professional engineer, do you have an opinion as to whether the services and**
11 **facilities to be provided by the proposed District will be incompatible with the**
12 **capacities and uses of existing local and regional community development facilities**
13 **and services?**
14

15 My opinion is that the proposed District will not be incompatible with the capacities and
16 uses of existing local and regional community facilities and services.
17

18 **25. What is the basis for your opinion?**
19

20 There is no duplication or overlap of facilities or services because no other entity or unit of
21 government is presently funding or providing the improvements proposed by the proposed
22 District. Therefore, the proposed District will be an efficient entity to participate in the
23 construction and maintenance of the necessary infrastructure improvements.
24

25 **26. As a professional engineer, do you have an opinion as to whether the area to be**
26 **included within the proposed District is amenable to being served by separate special**
27 **district government?**
28

29 Yes. The proposed District encompasses approximately 169 acres. First, a project of this
30 size is large enough to support its own community with individual facility and service
31 needs. Second, although maintenance of improvements is also a concern, the proposed
32 District can be utilized as an efficient long-term mechanism to ensure that the residents of
33 the proposed District pay for and receive proper and required maintenance. Therefore, my
34 opinion is that the area within the proposed District is amenable to separate special district
35 government.
36

37 **27. As a professional engineer, do you have an opinion as to whether the proposed District**
38 **is the best alternative to provide the proposed community development services and**
39 **facilities to the area that will be served?**
40

41 Yes.
42

43 **28. What is your opinion?**
44

45 It is my opinion that the proposed District is the best alternative to provide the proposed
46 services and facilities within the proposed District.

1
2 **29. What is the basis of your opinion?**

3 The proposed District is a long-term, stable, perpetual entity capable of funding,
4 constructing and, in some cases, maintaining the facilities over the lifetime of the facilities
5 because the proposed District has the advantage of being a unit of local government, which
6 has access to the tax exempt bond market. Neither a property owners' nor homeowners'
7 association (POA/HOA) has the ability to finance infrastructure of the nature and scope
8 contemplated here, or manage the construction, acquisition or maintenance of the public
9 infrastructure. Neither is authorized to place a first lien on property if the owner does not
10 pay its maintenance assessments. Overall, the proposed District would be a more timely,
11 reliable and cost-efficient mechanism to deliver and maintain the needed community
12 improvements.

13
14 **30. Do you have an opinion, as someone experienced in land planning, as to whether the
15 proposed District is a viable alternative for delivering community services and
16 facilities to the areas that will be served by the proposed District?**

17
18 Yes. It is my opinion that the proposed District is a viable alternative for providing the
19 proposed services and facilities to the land to be included within the proposed District.
20

21 **31. What are the alternatives contemplated in rendering this opinion?**

22
23 There would be two alternatives to the establishment of the proposed District. First, to
24 facilitate economic development, accommodate new growth, and provide new services, the
25 City or County could perhaps provide the selected facilities. The second alternative would
26 be for the developer or property owners association (POA) to provide the infrastructure
27 using private financing.
28

29 **32. Can you provide an example of a service or facility and explain why a CDD is a
30 preferred alternative for long-term operation and maintenance?**

31
32 Yes. An example would be a stormwater management system. By statute, CDDs and
33 property owners' associations are permitted to operate and maintain these systems.
34 However, homeowners' associations are generally required by typical water management
35 district rules to provide significantly more information and documentation before they are
36 authorized to operate and maintain a stormwater management system. Such documentation
37 generally must (i) indicate that the association has the required financial capabilities, (ii)
38 mandate that the association will operate and maintain such systems and (iii) provide that
39 the association cannot be dissolved until another entity is found to maintain the system.
40

41 A CDD, which is generally considered to be a more secure financial, legal and
42 administrative entity, generally must simply provide a letter to the water management
43 district committing that the district will accept operation and maintenance responsibility.
44 All things being equal, a CDD is preferred over a homeowners' or property owners'
45 association for operation and maintenance of a stormwater management system.
46

1 **33. How does the proposed District compare to these alternatives?**

2 By comparison of the alternatives referenced above, from a planning perspective, the
3 proposed District is the best alternative available to provide the necessary infrastructure
4 improvements. As a special-purpose “local government,” the proposed District is a stable,
5 long-term public entity capable of constructing, maintaining and managing the proposed
6 elements of infrastructure of the necessary facilities and services. The limited purpose and
7 scope of the District, combined with the statutory safeguards in place, such as notice of
8 public hearings and access to district records, would ensure that the proposed District is
9 responsive to the infrastructure needs of the proposed District. The proposed District
10 would be able to obtain low-cost financing to provide the necessary improvements and then
11 impose special or non-ad valorem assessments upon the property owners within the District
12 to fund the infrastructure.

13
14 Only a CDD allows for the independent financing, administration, operations and
15 maintenance of the land within the District. Only a CDD allows district property owners,
16 and eventually residents, to completely control the district board and, therefore, the timing
17 and extent of infrastructure improvement and maintenance. Knowing when, where and how
18 infrastructure will be needed to service the projected population of an area allows for the
19 smooth delivery of those facilities. The proposed District exceeds other available
20 alternatives at focusing attention to when and where and how the next system of
21 infrastructure will be required for this specific area. This results in a full utilization of
22 existing facilities before new facilities are constructed. It reduces the delivered cost to the
23 citizens being served. All other alternatives do not have these characteristics.

24
25 **34. In the course of your work in Florida, have you had an opportunity to work with the**
26 **State Comprehensive Plan found in Chapter 187, Florida Statutes?**

27
28 Yes. In the course of producing planning documents for private development proposals, I
29 have often referred to the State Comprehensive Plan.
30

31 **35. In the course of your work in Florida, have you had an opportunity to review local**
32 **government comprehensive plans?**

33
34 Yes.
35
36
37
38

39 **36. At this point, I will ask you to address certain matters that are related to land use and**
40 **comprehensive planning. Are you familiar with the development approvals that have**
41 **been obtained or are being sought by the Petitioner to govern the lands within the**
42 **proposed District?**

43
44 Yes, I am.
45

46 **37. Based upon your training and experience as a civil engineer specializing in land**

1 development, do you have an opinion as to whether the proposed District is
2 inconsistent with any portion or element of the State Comprehensive Plan found in
3 Chapter 187, *Florida Statutes*?

4
5 Yes.

6
7 **38. What is that opinion?**

8
9 In my professional opinion, the proposed District is not inconsistent with the applicable
10 provisions of Chapter 187, *Florida Statutes*.

11
12 **39. What is the basis for your opinion?**

13
14 I have reviewed, from a planning perspective, applicable portions of the State
15 Comprehensive Plan which relate to CDDs. The State Comprehensive Plan “provides
16 long-range policy guidance for the orderly social, economic, and physical growth of the
17 state.” The State Comprehensive Plan provides twenty-five (25) subjects, and numerous
18 goals and policies. Three subjects are particularly relevant, from a planning perspective to
19 the establishment of CDDs: No. 15 - Land Use, No. 17 – Public Facilities, and No. 25 -
20 Plan Implementation. Several of the policies and goals are particularly supportive of the
21 establishment of the proposed District.

22
23 **40. Why is subject No. 15 in the State Comprehensive Plan relevant to the establishment**
24 **of the proposed District?**

25
26 This goal recognizes the importance of enhancing the quality of life in the State of Florida
27 and attempts to do so by ensuring that development is located in areas that have fiscal
28 abilities and service capacity to accommodate growth. CDDs are designed to provide
29 services and facilities in a fiscally responsible manner to areas which can accommodate
30 development. The proposed District is consistent with this goal because it will continue to
31 have the fiscal capability to provide a range of services and facilities to a population in a
32 designated growth area.

33
34
35
36
37
38 **41. Are any of the policies under subject No. 15 relevant?**

39
40 Yes. Policy 1 promotes efficient development activities in areas which will have the
41 capacity to service new populations and commerce. The proposed District will be a vehicle
42 to provide high quality services in an efficient and focused manner over the long term.

43
44 **42. What is Subject 17 and why is it relevant?**

1 Subject 17 addresses public facilities. The goal is to finance new facilities in a timely,
2 orderly and efficient manner. In particular, Policy 3 states that the cost of new public
3 facilities should be allocated to existing and future residents on the basis of the benefits
4 received. Policy 6 also encourages the identification and implementation of innovative but
5 fiscally sound and cost-effective techniques for financing public facilities. Establishment
6 of the proposed District will further this goal and related policies.
7

8 **43. Why is subject No. 25, the other subject you mentioned, relevant to the establishment**
9 **of the proposed district?**

10
11 Subject No. 25 addresses Plan Implementation. This goal requires that systematic planning
12 capabilities be integrated into all levels of government throughout the state, with particular
13 emphasis on improving inter-governmental coordination and maximizing citizen
14 involvement. The proposed District will operate through a separate and distinct Board of
15 Supervisors who will systematically plan the construction, operation and maintenance of
16 public improvements and community facilities authorized under Chapter 190, *Florida*
17 *Statutes*, subject to and not inconsistent with the local government comprehensive plan and
18 land development regulations. Further, meetings held by the Board of Supervisors are
19 publicly advertised and open to the public.
20

21 **44. Are there any relevant policies in this portion of the State Comprehensive Plan?**

22
23 Yes. Policy 6 encourages public citizen participation at all levels of policy development,
24 planning and operations. Under Chapter 190, *Florida Statutes*, six (6) years after the
25 establishment of a CDD, and after two hundred and fifty (250) electors reside in the CDD,
26 the election of the Board of Supervisors begins to transition from a landowner-elected
27 Board to a resident-elected Board. Regardless of whether the board is elected by the
28 landowners or the residents, the District must convene its meetings in accordance with
29 government in the sunshine provisions set forth in Chapter 286, *Florida Statutes*. This
30 encourages citizen participation in the planning and operational activities of the District.
31

32 **45. Based upon your training and experience as a land development engineer, do you**
33 **have an opinion as to whether establishment of the proposed District is inconsistent**
34 **with any portion or element of the City?**

35
36 Yes, I do.

37
38 **46. What is that opinion?**

39
40 In my professional opinion, the establishment of the proposed District is not inconsistent
41 with any applicable provisions of the City and County's Comprehensive Plans.
42

1 **47. What is the basis for that opinion?**
2

3 Since Chapter 190, *Florida Statutes*, prohibits any community development district from
4 acting in a way inconsistent with the local government's comprehensive plan, the
5 exercising of any power must be done with the comprehensive plan in mind. In addition,
6 the following elements of the City's Comprehensive Plan generally relate to and are
7 consistent with establishment of the proposed District. The following policies and elements
8 specifically support my opinion:
9

10 Development Policies

- 11 • Future Land Use - Development Areas
- 12 • Conservation - Surface Water and Development
13 Regulations

14
15 Public Facilities Policies – The District will have both the funding source
16 and the authority to provide needed infrastructure and services to this
17 compact, urban growth including:

- 18 • Infrastructure Element - Sanitary Sewers, Storm-water
19 Management, Potable water
- 20 • Recreation and Open Space Element

21
22 Implementation Policies

- 23 • Intergovernmental Coordination Element
- 24 • Capital Improvement Element

25
26 It is my opinion, therefore, that with respect to the establishment of the District, the
27 establishment will not be inconsistent with any applicable element or portion of the City's
28 Comprehensive Plan.
29

30 **48. Does this conclude your testimony?**
31

32 Yes, it does.