

1 **TESTIMONY OF JEFFREY J. NEWTON, P.E., FOR ESTABLISHMENT OF**
2 **POITRAS EAST COMMUNITY DEVELOPMENT DISTRICT**
3

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

5
6 Jeffrey J. Newton, 2200 Park Avenue North, Winter Park, Florida 32789-3255.
7

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

9
10 Donald W. McIntosh Associates, Inc.; Senior Vice President.
11

12 **3. How long have you held that position?**

13
14 I have been employed with Donald W. McIntosh Associates, Inc. for 10 years and have
15 held the position of Senior Vice President for 1 year.
16

17
18 **4. Please give your educational background, with degrees earned, major areas of study**
19 **and institutions attended.**

20
21 I received a Bachelor of Mechanical Engineering degree from The Johns Hopkins
22 University in Baltimore, Maryland in 1990. Since graduating, I have attended numerous
23 seminars and participated in continuing education courses related to stormwater
24 management, flood plain management, pipe hydraulics, environmental permitting, ADA
25 compliance, and project management.
26

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

28
29 My professional experience, credentials and affiliations are found in my resume, attached
30 to this testimony as **Exhibit A**.
31

32 **6. Have you been involved in any developments of the type and nature similar to those**
33 **in the proposed Poitras East Community Development District (“District”)?**
34

35 I have been involved in a number of residential and mixed-use projects that contain
36 similar necessary public infrastructure improvements, several of which involve
37 Community Development Districts. I was involved in the establishment and served as
38 chairman of the Concorde Estates Community Development District, the Anthem Park
39 Community Development District and the Laurel Highlands Community Development
40 District. I also currently serve as the District Engineer for three Districts, including the
41 Boggy Creek Improvement District, the Greenway Improvement District and the Myrtle
42 Creek Improvement District. All of these projects are included in my resume, attached to
43 this testimony as **Exhibit A**.

1
2 **7. Are you familiar with the Petition (“Petition”) filed by TDCP, LLC (“Petitioner”)**
3 **with the City Council of the City of Orlando, Florida on or around March 13, 2018,**
4 **seeking the establishment of the proposed District?**

5
6 Yes. My firm assisted the Petitioner with the preparation of some of the exhibits filed
7 with the Petition.
8

9 **8. Are you familiar with those parcels of land proposed to be included in the District**
10 **that are located within the City of Orlando, Florida (“City”)?**

11
12 Yes, I am.
13

14 **9. Are you generally familiar with the geographical area, type, and scope of**
15 **development and the available services and facilities in the vicinity of the proposed**
16 **District?**

17
18 Yes, I am.
19

20 **10. Which documents did you prepare or have others prepare under your supervision?**

21
22 Exhibits 1 through 5.
23

24 **11. Do any of those exhibits require any change or correction?**

25
26 Not to my knowledge.
27

28 **12. Are Exhibits 1 through 5 to the Petition true and correct?**

29
30 Yes, to the best of my knowledge.
31

32 **13. In general, what do Exhibits 1 through 5 to the Petition demonstrate?**

33
34 These exhibits demonstrate the general location and character of the property that is
35 proposed to be included within the District boundaries, as well as legal descriptions of the
36 proposed District boundaries. They also described the types and locations of existing
37 utility facilities and the types, general construction timetable, and estimated costs of
38 construction of proposed facilities.
39

40 **14. What capital facilities are presently expected to be provided by the proposed**
41 **District?**

42
43 At present, the proposed District is expected to provide roads, streets and associated

1 surface water management, bridges/waterway crossings, signalization, utilities,
2 landscaping and entry features, and wetland mitigation.

3
4 **15. Based upon your training and experience as an engineer, do you have an opinion as**
5 **to whether the proposed District is of sufficient size, compactness, and sufficient**
6 **contiguity to be developed as a functional interrelated community?**

7
8 Yes. Based on my experience, the proposed District is of sufficient size, compactness and
9 contiguity to be developed as a one functional interrelated community.

10
11 **16. What is the basis for your opinion?**

12
13 For many reasons the proposed District facilities can be provided in an efficient,
14 functional and integrated manner.

15
16 First, there are sufficient, significant infrastructure needs for the area within the proposed
17 District to allow development as a functionally interrelated community.

18
19 Second, the specific design of the community allows infrastructure to be provided in a
20 cost effective manner. The land included within the proposed District area is contiguous,
21 which facilitates an efficient and effective planned development.

22
23 Third, the provision of services and facilities through the use of one development plan
24 provides a contiguous and homogenous method of providing services to lands throughout
25 the proposed District.

26
27 **17. In your opinion, you said the proposed District is sufficiently compact and**
28 **contiguous to be developable as a functionally interrelated community. Would you**
29 **please explain what you mean when stating that the proposed District is of sufficient**
30 **compactness?**

31
32 The proposed District will encompass approximately 1,060 acres and is proposed to
33 provide a range of residential, commercial and support land uses that require the
34 necessary elements of infrastructure including roadways, potable water systems,
35 wastewater systems, surface water management systems, landscape and entry features,
36 and other improvements described in the Petition. The proposed District is proposed to
37 have sufficient overall residential and commercial density to require all of the above-
38 mentioned necessary elements of infrastructure to support a comprehensive community.
39 These facilities and services require adequate planning, design, financing, construction,
40 and maintenance to provide the community with appropriate infrastructure. The
41 preferred method of developing land, especially for higher density residential uses, is for
42 the development to be spatially compact. This augments the District's ability to construct
43 and maintain improvements and provide services in a cost efficient manner.

1
2 The lands within the proposed District will be developed in phases as identified in the
3 Petition but with the common overall design intent to promote connectivity and
4 functionality.
5

6 **18. Can you provide an example of a service or facility and explain why a community**
7 **development district (“CDD”) is a preferred alternative for long-term operation and**
8 **maintenance?**
9

10 Yes. One example would be landscaping, entry features and lighting facilities. Quite
11 often, large communities experience not only a lack of continuity in the design of
12 landscaping and lighting improvements but also in the maintenance of such
13 improvements. Through a CDD, the main entries and framework roadways of the
14 community can be constructed, landscaped and maintained in a consistent and cohesive
15 manner.
16

17 Another example would be framework infrastructure that provides regional connectivity,
18 whether through framework roadways or major utility facilities. Such improvements are
19 generally cost prohibitive for a large planned community that develops in multiple phases
20 over a period of years or decades. A CDD allows such framework infrastructure
21 improvements to be constructed concurrently with the demand for such improvements.
22

23 **19. Does the establishment of the proposed District obviate the need for local land**
24 **development regulations, ordinances or plans?**
25

26 No. Section 190.004 of the *Florida Statutes*, explicitly provides that the establishment of
27 a CDD does not in any way impact or change the applicability of any governmental
28 planning, environmental and land development laws, regulations, and ordinances. A CDD
29 cannot take any action that is inconsistent with the comprehensive plan, code of
30 ordinances or regulations of the city or county within which it is located.
31

32 **20. Based on your experience, do you have an opinion as to whether the services and**
33 **facilities to be provided by the proposed District will be incompatible with the**
34 **capacities and uses of existing local and regional community facilities and services?**
35

36 Yes. It is my opinion that the proposed services and facilities of the proposed District
37 will not be incompatible with the capacity and uses of existing local or regional
38 community development services and facilities.
39

40 **21. What is the basis for your opinion?**
41

42 Currently, none of the planned infrastructure improvements that the proposed District
43 plans to provide exist on the subject property in a manner which is useful to the proposed

development. Each of the elements of infrastructure for the necessary services and facilities will connect into the existing, surrounding systems according to criteria, review and approval of the existing operational entity; there will be no incompatibility issues.

22. Based on your experience, do you have an opinion as to whether the area to be included within the proposed District is amenable to being served by a separate special district government?

Yes. In my opinion, and to the best of my knowledge, the area identified in the petition is amenable to being served by a separate special district government.

23. What is the basis for your opinion?

The proposed District is limited in purpose and the infrastructure improvements to be provided by the proposed District are limited in scope. This infrastructure is expected to directly benefit the development and may be adequately served by a special district government. In addition, special district governance provides a mechanism whereby long-term maintenance obligations can be satisfied by the persons primarily using the facilities and services.

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

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

25. What are the alternatives contemplated in rendering this opinion?

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

26. How does the proposed District compare to these alternatives?

By comparison of the alternatives referenced above, from a planning perspective, the proposed District is the best alternative available to provide the necessary infrastructure improvements. As a special-purpose "local government," the proposed District is a stable, long-term public entity capable of constructing, maintaining and managing the proposed elements of infrastructure of the necessary facilities and services. The limited purpose and scope of the proposed District, combined with the statutory safeguards in place, such

as notice of public hearings and access to district records, would ensure that the proposed District is responsive to the infrastructure needs of the proposed District. The proposed District would be able to obtain low-cost financing to provide the necessary improvements and then impose special or non-ad valorem assessments upon the property owners within the proposed District to fund the infrastructure.

Only a CDD allows for the independent financing, administration, operations and maintenance of the land within the proposed District. Only a CDD allows CDD property owners, and eventually residents, to completely control the CDD board and, therefore, the timing and extent of infrastructure improvement and maintenance. Knowing when, where and how infrastructure will be needed to service the projected population of an area allows for the smooth delivery of those facilities. The proposed District exceeds other available alternatives at focusing attention to when, where and how the next system of infrastructure will be required for this specific area and reduces the delivered cost to the citizens being served. All other alternatives do not have these characteristics.

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

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

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

Yes. In fact, I have reviewed the City of Orlando Growth Management Plan in the course of my work.

29. Are you familiar with the development approvals that have been obtained or are being sought by the Petitioner to govern the lands within the proposed District?

Yes, I am.

30. Based upon your training and experience as a professional engineer specializing in land development, do you have an opinion as to whether the proposed District is inconsistent with any portion or element of the State Comprehensive Plan found in Chapter 187, *Florida Statutes*?

Yes.

31. What is that opinion?

In my professional opinion, the proposed District is not inconsistent with the applicable

provisions of Chapter 187, *Florida Statutes*.

32. What is the basis for your opinion?

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

33. Why is subject No. 15 in the State Comprehensive Plan relevant to the establishment of the proposed District?

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

34. Are any of the policies under subject No. 15 relevant?

Yes. Policy 1 promotes efficient development activities in areas which will have the capacity to service new populations and commerce. The proposed District will be a vehicle to provide services in an efficient and cost-effective manner over the long term.

35. What is Subject 17 and why is it relevant?

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

36. Why is subject No. 25, the other subject you mentioned, relevant to the establishment of the proposed district?

1 Subject No. 25 addresses Plan Implementation. This goal requires that systematic
2 planning capabilities be integrated into all levels of government throughout the state, with
3 particular emphasis on improving inter-governmental coordination and maximizing
4 citizen involvement. The proposed District will operate through a separate and distinct
5 Board of Supervisors who will systematically plan the construction, operation and
6 maintenance of public improvements and community facilities authorized under Chapter
7 190, *Florida Statutes*, subject to and not inconsistent with the local government
8 comprehensive plan and land development regulations. Further, meetings held by the
9 Board of Supervisors are publicly advertised and open to the public.

10
11 **37. Are there any relevant policies in this portion of the State Comprehensive Plan?**

12
13 Yes. Policy 6 encourages public citizen participation at all levels of policy development,
14 planning and operations. Under Chapter 190, *Florida Statutes*, six (6) years after the
15 establishment of a CDD, and after two hundred and fifty (250) electors reside in the
16 CDD, the election of the Board of Supervisors begins to transition from a landowner-
17 elected Board to a resident-elected Board. Regardless of whether the board is elected by
18 the landowners or the residents, the CDD must convene its meetings in accordance with
19 government in the sunshine provisions set forth in Chapter 286, *Florida Statutes*. This
20 encourages citizen participation in the planning and operational activities of the CDD.

21
22 **38. Based upon your training and experience in land planning and development as a**
23 **professional engineer, do you have an opinion as to whether establishment of the**
24 **proposed District is inconsistent with any portion or element of the City of**
25 **Orlando's Growth Management Plan?**

26
27 Yes, I do.

28
29 **39. What is that opinion?**

30
31 In my professional opinion, based on over 30 years of experience in land planning and
32 development and on my firm's considerable experience with CDDs, the establishment of
33 the proposed District is not inconsistent with any applicable provisions of the City's
34 Growth Management Plan. In fact, portions of the Growth Management Plan are
35 supportive of the establishment of CDDs. The City's Southeast Sector Plan and the
36 Growth Management Plan identify CDDs as a method of funding public infrastructure
37 improvements. Furthermore, the City has encouraged the creation of other CDDs within
38 the City.

39
40 **40. What is the basis for that opinion?**

41
42 Since Chapter 190, *Florida Statutes*, prohibits any CDD from acting in a way
43 inconsistent with the local government's comprehensive plan, the exercising of any

1 power must be done with the comprehensive plan in mind. The following elements of the
2 City's Growth Management Plan generally relate to the planned activities of the proposed
3 District and are consistent with establishment of the proposed District:
4

- 5 • Future Land Use Element
- 6 • Conservation Element
- 7 • Potable Water Element
- 8 • Wastewater Element
- 9 • Stormwater and Aquifer Recharge Element
- 10 • Transportation Element
- 11 • Intergovernmental Coordination Element
- 12 • Capital Improvements Element
- 13

14 It is my opinion, therefore, that with respect to the establishment of the proposed District,
15 the establishment will not be inconsistent with any applicable element or portion of the
16 City's Growth Management Plan.
17

18 **41. Does this conclude your testimony?**
19

20 Yes, it does.
21



EXHIBIT A

JEFFREY J. NEWTON, P.E. SENIOR VICE PRESIDENT

SUMMARY OF CAPABILITIES

Due Diligence / Feasibility Studies
Residential, Commercial, Office, Industrial, Institutional & Civic Design
Roadway Design
Paving, Grading & Drainage Design
Stormwater Management Design
Utility Design
Regulatory Permitting
Comprehensive Planning
Sector Plans
Developments of Regional Impact
Community Development Districts
Project Management
Eminent Domain / Expert Witness / Professional Testimony

EXPERIENCE

Mr. Newton has worked in the engineering field since 1984, both as a consultant and as a land developer for the homebuilding industry, and is experienced in the design of residential, commercial and industrial land development projects, including roadway, drainage, utility, grading and stormwater design. Mr. Newton has also been responsible for acquisition of regulatory permits and obtaining approval of local governing boards through representation at community meetings and public hearings. Additional experience includes the establishment and funding of multiple Community Development Districts, team management for multiple Developments of Regional Impact and provision of expert witness and professional testimony in judicial proceedings.

PROFESSIONAL LICENSES

Registered Engineer, State of Florida #55033 (active)
Registered Engineer, State of Maryland #19153 (expired)
Registered Engineer, State of Kentucky #18911 (inactive)
Registered Engineer, State of Mississippi #13769 (expired)
Registered Engineer, State of South Carolina #16523 (expired)
Qualified Stormwater Management Inspector #1144

EDUCATION

Bachelor of Mechanical Engineering
The Johns Hopkins University – Baltimore, Maryland

PROFESSIONAL ASSOCIATIONS

National Society of Professional Engineers
American Society of Civil Engineers
Florida Engineering Society
Osceola County Growth Management Task Force

PROJECT EXPERIENCE RESIDENTIAL

Arlington Ridge; Leesburg, Florida
Bellavida; Kissimmee, Florida
Bluff Pointe on the Severn; Severna Park, Maryland
Carter Glen; Orlando, Florida
Celery Key; Sanford, Florida
Clayton Estates; Apopka, Florida
Colony Lakes; Pasco County, Florida
Concorde Estates (aka Parkview at Lakeshore); Osceola County, Florida
Consolidated Tomoka / LPGA; Daytona Beach, Florida
Crofton Village; Crofton, Maryland
Cypress Shadows; Osceola County, Florida
Deer Creek; St. Cloud, Florida
East Park Neighborhoods 2 & 4; Orlando, Florida
Encantada; Kissimmee, Florida
Estancia; Kissimmee, Florida

DONALD W. McINTOSH Associates, Inc.

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JEFFREY J. NEWTON, P.E.
SENIOR VICE PRESIDENT

RESIDENTIAL
(CONTINUED)

Flagship Park; Sanford, Florida
Forestbrooke; Ocoee, Florida
Fountain Brook; Fountain Inn, South Carolina
Fountain Parke; Lake Mary, Florida
Graham Farm; Severn, Maryland
Harmony; Osceola County, Florida
Holly Hills; Polk County, Florida
Horizon West Villages F & H; Orange County, Florida
Iota Sessions (aka Oxford Chase); Winter Garden, Florida
Jahna Mine (aka WaterBrooke); Lake County, Florida
Kerina Parkside; Orange County, Florida
Lake Trask; Polk County, Florida
Laurel Highlands; Lakeland, Florida
Live Oak Lakes; Osceola County, Florida
Magnolia Club; Sanford, Florida
Magnolia PD; Sanford, Florida
Marina Point Harbor; Daytona Beach, Florida
Osprey Lakes; Seminole County, Florida
Overlook at Parkside; Apopka, Florida
Palma Vista at MetroWest; Orlando, Florida
Parkside at Errol Estate; Apopka, Florida
Pebble Pointe; Kissimmee, Florida
Point Cypress; Orange County, Florida
Prairie Lake Reserve; Ocoee, Florida
Raintree; Osceola County, Florida
Rio Pinar; Orange County, Florida
Roberson Property; Ocoee, Florida
Robinson Hills; Orange County, Florida
Sandy Ridge; Polk County, Florida
Shingle Creek Reserve at The Oaks; Kissimmee, Florida
Sorrento Hills; Lake County, Florida
Springlake Village; Osceola County, Florida
Summerbrooke; Mt. Dora, Florida
Sunset Ridge; Polk County, Florida
Swann Point; Arnold, Maryland
Sweetwater Golf & Country Club; Orange County, Florida
Terrace Ridge at Town Center; Polk County, Florida
Tilden Property; Winter Garden, Florida
Tucker Oaks; Winter Garden, Florida
Veranda Palms; Osceola County, Florida
Vintage Winter Park; Orange County, Florida
Villas at East Park; Orlando, Florida
Villas at Estancia; Kissimmee, Florida
Waters Edge; Orlando, Florida
Waterside; Orange County, Florida
Watersong; Polk County, Florida
Wolf Creek; Highlands County, Florida



JEFFREY J. NEWTON, P.E.
SENIOR VICE PRESIDENT

COMMERCIAL	Aldi Food Stores (over 20 locations in North Carolina & South Carolina) Crown Petroleum; Charlotte, North Carolina (3 locations) Leesburg Mitsubishi; Leesburg, Florida Lowe's Home Improvement; Charleston, West Virginia & Greenville, South Carolina McDonalds; Middlesboro, Kentucky Sam's Club; Annapolis & Laurel, Maryland Walgreens; St. Cloud, Florida Wal-Mart Anchored Centers (over 15 locations in Maryland, Virginia, West Virginia & Mississippi)
INDUSTRIAL	Curtis Business Center; Glen Burnie, Maryland Fairforest Industrial Park; Spartanburg, South Carolina Pavilion at Sand Lake Road; Orange County, Florida United States Gypsum Company; Baltimore, Maryland and Stony Point, New York
INSTITUTIONAL	Avante; Orlando, Florida Faith Baptist Church; Glen Burnie, Maryland Greystone Skilled Nursing; Apopka, Florida La Amistad Residential Treatment Center; Seminole County, Florida Project Wellness; Winter Park, Florida University Behavioral Center; Orange County, Florida
MIXED USE	Anthem Park; St. Cloud, Florida Beacon Park; Orange County, Florida Cagan Crossings; Lake County, Florida Deseret Ranch; Orange, Osceola and Brevard Counties, Florida Innovation Way East; Orange County, Florida International Corporate Park; Orange County, Florida Lake Nona; Orlando, Florida Lake Lotta; Ocoee, Florida Northeast District; Osceola County, Florida Ruby Lake PD; Orange County, Florida Spring Isle; Orange County, Florida Starwood; Orange County, Florida Summer Bay Resort; Lake County, Florida Sunbridge; Orange and Osceola Counties, Florida Westlake Cove (aka Toho Preserve & Kindred); Osceola County, Florida Windrush-Radebaugh Property; Orlando, Florida World Gateway; Orange County, Florida
OFFICE	First Union Office Building; Orlando, Florida
OTHER	Carabao International Eminent Domain Assistance (SR 50); Groveland, Florida Central Florida Expressway Authority Eminent Domain Assistance (SR 408 and SR 429); Orange and Lake Counties, Florida Conceptual Roadway Design Studies for the Narcoossee Community; Osceola County, Florida Sunbridge Parkway Preliminary Design Study; Orange County, Florida John Deere Training Facility; Osceola County, Florida Lake X Ranch Mitigation Bank; Osceola County, Florida Roper Properties; Various Florida Counties Taylor Creek Reservoir; Osceola and Orange Counties, Florida