



Central Florida's Reedy Creek Improvement District Has Wide-Ranging Authority

at a glance

The 1967 Legislature passed a special act that created the Reedy Creek Improvement District (RCID), encompassing nearly 25,000 acres in Orange and Osceola counties. The main purpose of the special act was to grant RCID a wide range of governmental powers to be used to promote recreation-oriented projects, economic development, and tourism within district boundaries. The primary landowner of property within RCID is the Walt Disney World Co.

OPPAGA determined that in general, current accountability mechanisms are sufficient to ensure that if primary landownership changed, RCID would continue to meet the public purpose expressed in its special act and in other legislation. However, if the Legislature wished to provide additional safeguards to prevent a new primary landowner from making drastic changes to district services, operations, and development activities, it could

- consider establishing criteria for recalling members of the RCID board to prevent members from being replaced without cause at the discretion of a new primary landowner; and
- consider making development of land within RCID subject to the more stringent coordination and oversight mechanisms provided for in s. 380.06, *Florida Statutes*, related to developments of regional impact.

Scope

This project was conducted pursuant to a request by the Joint Legislative Auditing Committee to examine certain aspects of the Reedy Creek Improvement District. To address the committee's request, OPPAGA answered four questions.¹

1. What is the Reedy Creek Improvement District?
2. What powers and duties did the Legislature give the Reedy Creek Improvement District through its special act and other laws?
3. What would be the impact of a transfer of primary landownership within the Reedy Creek Improvement District?
4. What steps could the Legislature take to enhance current accountability mechanisms?

¹ OPPAGA did not review the district's performance nor evaluate its compliance with federal and state law.

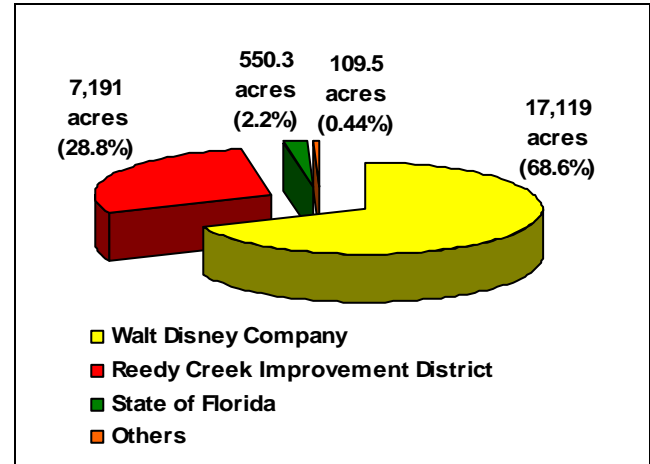
Questions and Answers —

Question 1: What is the Reedy Creek Improvement District?

In 1967, the Legislature passed a special act, codified as Ch. 67-764, *Laws of Florida*, which created the Reedy Creek Improvement District (RCID).² The primary purpose of the special act was to grant the district a wide range of governmental powers to be used to promote recreation-oriented projects, economic development, and tourism within district boundaries. The Legislature determined that realization of these objectives meets a valid public purpose that would benefit “all properties, persons, and enterprises within the district.”³

Currently, RCID encompasses 24,969.4 acres in Orange and Osceola counties, the majority of which (17,119 acres) is owned by the Walt Disney World Co.⁴ The district is the next largest landowner (7,190.6 acres), followed by the state (550.3 acres). Other entities, such as Orange County, Palm Hospitality Company, the Celebration Company, and district board members, own 109.5 acres within the district. See Exhibit 1 for a breakdown of district landownership and Appendix A for RCID property owner and governmental jurisdiction maps.

Exhibit 1
Walt Disney World Co. Is the District’s Largest Landowner



Source: Reedy Creek Improvement District.

Governance. A five-member board of supervisors governs RCID; supervisors are elected every two years at the district’s annual landowners’ meeting. According to RCID’s special act, an individual must own land within the district in order to serve on the board. Historically, each board member has been deeded approximately five acres of land by an affiliate of the Walt Disney World Co.⁵ Board members hold office for staggered terms of four years each. The district’s special act provides that at elections of supervisors, each landowner is entitled to one vote for each acre of land owned; as the largest landowner, the Walt Disney World Co. is entitled to the most votes.

Resources. Reedy Creek Improvement District employs approximately 300 full-time staff and funds its operations, services, acquisitions, and capital improvements by assessing landowners and lessees taxes and fees and by issuing bonds. As shown in Exhibit 2, the district collected over \$54 million in ad valorem taxes in 2004, with the majority (86%) paid by the Walt Disney World Co. and its affiliates.⁶ During this same period, the district collected \$147.7 million in fees for

² In 1964, affiliates of the Walt Disney World Co. began purchasing undeveloped land in Osceola and Orange counties. In 1966, the company filed a petition seeking authority to establish a drainage district encompassing 27,000 contiguous acres. The court granted the request, establishing the drainage district and authorizing it to exercise the specific, limited powers granted by Ch. 298, *F.S.* In 1967, the Legislature expanded the drainage district’s authority in Ch. 67-764, *Laws of Florida*.

³ The Florida Supreme Court affirmed the district’s public purpose in 1968, when it validated the issuance of \$12 million in revenue bonds by RCID to finance the reclamation of wet and submerged lands within the district. See *State v. Reedy Creek Improvement Dist.*, 216 So. 2d 202 (Fla. 1968).

⁴ The district includes the cities of Bay Lake and Lake Buena Vista. According to 2000 Census data, the cities have a combined population of only 39 residents.

⁵ According to RCID officials, a Walt Disney World Co. affiliate has the exclusive option to purchase land back from board members at any time.

⁶ The Walt Disney World Co. also pays taxes to Orange and Osceola counties.

providing public utility services such as electricity, gas, water, and wastewater.

As of September 30, 2004, the district had total outstanding long-term bond debt of \$654.5 million. Of the total bond debt, \$270.7 million is backed by the full faith and credit of the district, and \$383.8 million is secured by district utility revenues.

**Exhibit 2
Walt Disney World Co. Is the District's Largest Taxpayer**

Taxpayer	Amount Paid
Walt Disney World Co. and affiliates ¹	\$46,539,050
District Board Members	67
Other taxpayers ²	7,532,433
TOTAL	\$54,071,550

¹Includes Walt Disney Hospitality and Recreation Company, Walt Disney Travel Company, and The Celebration Company.

²The majority of the taxpayers in this category are lessees of property owned by companies that are affiliates of the Walt Disney World Co. (e.g., House of Blues, Travelodge, and Hilton). In the event that these lessees fail to pay such ad valorem taxes under their leases, the owners of the property would still be required under law to make payment.

Source: Reedy Creek Improvement District, Finance Department.

Question 2: What powers and duties did the Legislature give the Reedy Creek Improvement District through its special act and other laws?

When the Legislature created the Reedy Creek Improvement District, it granted the district broad authorities and rights typically reserved for municipal and county governments. While most special districts within Florida were created to provide single services such as fire protection, RCID's special act outlines the district's authority to provide a wide range of essential public services such as drainage and flood control, water and wastewater, electric power generation, solid waste collection, and fire protection. The special act also authorizes the district to develop and regulate building codes and oversee land use within its boundaries. Since its creation, the district has used these powers to regulate,

provide services to, and support the development activity of its primary landowner as the special act intended. While the district's special act suggests that some of its provisions cannot be amended by other legislatures, other laws have indeed modified district powers.

Special act established broad powers

The 1967 Legislature delegated to Reedy Creek Improvement District's elected board of supervisors the power to exercise a wide range of private- and governmental-type powers (see Exhibit 3 for examples of specific powers granted to RCID). The board's authority covered matters such as real property ownership and development; water and flood control; sewer and waste disposal systems; public utilities; and fire protection. The act also provided the district legal and financial authority to issue general obligation and revenue bonds and to assess landowners taxes and fees to finance these services. The issuance of general obligation bonds must first be approved at an election of district residents; the issuance of utility revenue bonds can be accomplished by resolution of the district's board of supervisors. During the past 37 years, RCID has used these powers to establish a wide array of regulations, services, and facilities to support development within the district.

Building and safety codes. Using the authority granted by the special act to adopt and enforce safety codes, the district developed the EPCOT Codes, which include building, plumbing, mechanical, gas, electrical, and fire prevention codes designed to safeguard life and property by regulating the design, construction, repair, and use of new and existing structures. All development within the district is subject to these codes rather than to the Florida Building Code. RCID Department of Building and Safety staff, consisting of state licensed and certified inspection personnel and permit processors, enforces the codes and annually inspects each building within the district to ensure that all emergency systems are operable and that buildings are maintained in accordance with applicable codes.

**Exhibit 3
RCID’s Special Act Granted the District Significant Authority**

Authority	Example of How RCID Has Used Authority
General	
<ul style="list-style-type: none"> Acquire property, real, personal, or mixed, within or without its territorial limits 	<ul style="list-style-type: none"> The district currently owns 7,190.6 acres within its territorial boundaries.
<ul style="list-style-type: none"> Exercise the right and power of eminent domain within the limits of the district to condemn real, personal, or mixed property that the board deems necessary for the use of any district project; condemn property outside the limits of the district under specified conditions relating to the use of the property for drainage purposes 	<ul style="list-style-type: none"> In 1967, the district initiated eminent domain proceedings to condemn property known as the “Overstreet Property” for the construction of a drainage canal. The district initiated eminent domain proceedings to condemn property known as the “Kai Kung and Wei Ying Ke Property” in 1968 for the same purpose.
<ul style="list-style-type: none"> Lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake 	<ul style="list-style-type: none"> Prior to acquisition of utility assets from Reedy Creek Energy Services (RCES), the district leased electric, water, gas, hot water, and chilled water utilities from RCES.
<ul style="list-style-type: none"> Issue general obligation, revenue, utility service tax, or other bonds to finance the acquisition, construction, extension or improvement of any projects 	<ul style="list-style-type: none"> As of September 30, 2004, the district had total outstanding long-term bond debt of \$654.5 million (unaudited estimate).
Development and Planning Related	
<ul style="list-style-type: none"> Adopt, review, amend, supplement or repeal codes regulating building safety, elevators, escalators, and similar devices; the prevention of fire hazards; plumbing and electrical installations; the operation of amusement and recreation parks and facilities; water supply and drainage wells; and such other safety or sanitary codes as the board may determine necessary or desirable 	<ul style="list-style-type: none"> The RCID board developed and implemented the EPCOT Codes, which include building, plumbing, mechanical, gas, electrical, and fire prevention codes designed to safeguard life and property by regulating the design, construction, repair, and use of new and existing structures within RCID.
<ul style="list-style-type: none"> Prohibit construction, alteration, repair, removal or demolition, or the commencement of the construction, alteration, repair, removal or demolition, of any building or structure, without first obtaining a permit from the board 	<ul style="list-style-type: none"> The RCID board developed and implemented a building permitting process that requires contractors to submit an application form and various documents, including a copy of the contract that defines the work to be performed, states the contract amount, and includes two sets of drawings and specifications.
<ul style="list-style-type: none"> Provide for the manner in which codes, regulations, and restrictions shall be determined, established, and enforced 	<ul style="list-style-type: none"> RCID Department of Building and Safety staff enforces the EPCOT Codes and annually inspects each building within the district to ensure that all emergency systems are operable and that buildings are maintained in accordance with applicable codes.
Utility Related	
<ul style="list-style-type: none"> Own, operate, and maintain water systems and sewer systems or combined water and sewer systems; regulate the use of sewers and the supply of water within the district; prohibit or regulate the use of other sanitary structures and to prescribe methods of sewage treatment 	<ul style="list-style-type: none"> RCID owns and operates the following water and sewer systems: (1) water distribution; (2) chilled water; (3) hot water; (4) potable water; (5) wastewater collection and treatment; and (6) reclaimed water.
<ul style="list-style-type: none"> Own, operate, and maintain a waste collection and disposal systems and sell or otherwise dispose of any effluent, residue, or other by-products of such system 	<ul style="list-style-type: none"> RCID owns and operates solid waste collection, transfer, recycling collection, and disposal systems.
<ul style="list-style-type: none"> Own, operate, and maintain canals, drains, levees, plants, pumping systems, and other works for drainage purposes and irrigation works, machinery, and plants 	<ul style="list-style-type: none"> RCID’s Department of Planning and Engineering maintains the district’s surface drainage system, which consists of 23 water control structures and 47 miles of canals with 22 miles of levees. Department staff review and provide approval of engineering plans and development of agreements for receipt of surface drainage from properties from beyond RCID boundaries.
<ul style="list-style-type: none"> Own, operate, and maintain electric power plants, transmission lines, gas mains, and facilities and plants for the generation and transmission of power through nuclear fission and other sources of power and energy 	<ul style="list-style-type: none"> RCID owns and operates an electrical generation, transmission, and distribution system and a natural gas distribution system.
<ul style="list-style-type: none"> Purchase electric power, natural gas, and other sources of power for distribution within the district 	<ul style="list-style-type: none"> RCID’s electric generation system includes a cogeneration facility currently aggregating 40,300 kilowatts of net capability. RCID purchases the remainder of its needs from other utilities.
	<ul style="list-style-type: none"> RCID purchases natural gas at the wellhead; Florida Gas Transmission Company pipelines transport it to the district’s natural gas distribution system.

Source: Chapter 67-764, *Laws of Florida*, and Reedy Creek Improvement District.

Emergency Services. As authorized by the special act, RCID provides emergency services and fire protection within its boundaries. Medical personnel provide emergency care and transport services for district employees and the public, utilizing ambulances with advanced life support capability and medical assistance response carts stationed at theme parks. Fire protection personnel provide prevention and suppression services, including annual fire inspections; weekly commercial kitchen inspections; permitting and inspection of pyrotechnic displays; and rapid response to fire emergencies.

Public Utilities. The district has also used the powers granted by the special act to provide utility services to property owners and lessees. Currently, RCID owns and operates all utility systems within the district, including

- wastewater collection and treatment;
- reclaimed, potable, chilled, and hot water;
- electric generation and distribution;
- natural gas distribution; and
- solid waste collection, transfer, recycling collection, and disposal.

Reedy Creek Energy Services (RCES) operates these systems on behalf of the district.⁷ RCES is an affiliate of the Walt Disney World Co. that is under contract with RCID to plan, design, operate, and maintain the utility systems owned by the district. The district establishes rates for the individual utility systems at public hearings held by the board of supervisors. Primary users of district utility services are the Walt Disney World Co. and its affiliates, as well as numerous lessees (e.g., House of Blues, Travelodge, Hilton).

Powers not currently exercised. RCID's special act also granted powers and authorities that the district has not used since its inception. For example, although the special act gave the district the authority to construct, operate, and maintain "facilities for the generation and transmission of

power through nuclear fission", RCID has not constructed a nuclear power plant. Similarly, the district does not currently operate a public-access airport, although the special act gave it the power to build, own, and manage airport facilities. In addition, although the district has authority to condemn land outside its boundaries and bring it within the district, RCID has exercised this power only twice, in 1967 and 1968 when it condemned property for drainage canals.

Other laws apply to the district

Language in Reedy Creek Improvement District's special act suggested that the powers given to its board would be controlling in the event of a conflict with a law enacted by a subsequent legislature unless the later law specifically amended the act. Moreover, the special act declared that the jurisdiction and powers of the board were exclusive of any law then or later enacted providing for land use regulation, zoning, or building codes by the state or any agency or authority of the state. However, district officials acknowledge that one legislature may not bind the hands of future legislatures by prohibiting amendments to statutory law, and provided OPPAGA with a list of examples of laws that they believe apply to the district.⁸

Comprehensive planning. District officials reported that RCID is subject to Ch. 163, *Florida Statutes*, the Local Government Comprehensive Planning and Land Development Regulation Act.⁹ Under the law, the district is required to adopt a comprehensive plan that guides future growth and development. As required by this law, RCID's comprehensive plans contain chapters or "elements" that address future land use,

⁸ RCID maintains that it is necessary to determine whether there is a "conflict" between the special act and a later enacted law before determining its applicability to the district, unless the special act is specifically addressed in the newer law. For most of the examples listed, the district notes that no conflict exists since the more recent laws govern areas not addressed by the special act. In addition, subsequent statutory amendments would not apply to RCID if the amendment's affect were to impair existing contractual agreements of the district, such as bond covenants.

⁹ Section 163.3167(9), *F.S.*, specifically references RCID, stating, "The Reedy Creek Improvement District shall exercise the authority of this part as it applies to municipalities, consistent with the legislative act under which it was established, for the total area under its jurisdiction."

⁷ At one time, RCES owned utility assets within the district. Although these assets have been sold to the district, RCES continues to provide the district utility personnel.

affordable housing, transportation, infrastructure, conservation, recreation and open space, intergovernmental coordination, and capital improvements. The district’s comprehensive plan must also address the law’s “concurrency” provision, which requires facilities, roadways, and services to be available in accord with the impacts of development.

Special districts. RCID is subject to Ch. 189, *Florida Statutes*, the Uniform Special District Accountability Act, which sets forth the general provisions for all special districts. The law declares that financial reporting is an essential element for special district accountability, details specific reporting requirements, contains processes to help special districts that are not compliant with reporting requirements, and provides for enforcement when necessary.

General governance. According to RCID officials, the district is also subject to laws that guide its governance. For example, as required by Ch. 112, *Florida Statutes*, which governs public officers and employees, district board members file reports with the Commission on Ethics, including full and public disclosure of financial interests and quarterly gift disclosure. In addition, the district is subject to Ch. 119, *Florida Statutes*, which requires that all state, county, and municipal records be open for personal inspection by any person. Similarly, RCID is subject to Ch. 286, *Florida Statutes*, the Sunshine Law, which establishes a basic right of access to most meetings of boards, commissions and other governing bodies of state and local government agencies. Under the law, RCID board meetings are open to the public and the district must give reasonable notice of and produce minutes of each meeting.

Question 3: What would be the impact of a transfer of primary landownership within the Reedy Creek Improvement District?

In February 2004, Comcast Corporation attempted to purchase The Walt Disney Company, including its Florida assets. The proposed acquisition was unsuccessful, but it

raised legislative concern about the impact of a transfer of primary landownership within the Reedy Creek Improvement District. Specifically, the Legislature was concerned that while key stakeholders report that the Walt Disney World Co. has been a good corporate citizen, a new owner may not take adequate steps to ensure that the district continues to meet its public purpose of promoting recreation-oriented projects, economic development, and tourism within district boundaries.

OPPAGA determined that RCID is subject to many federal and state regulations that would help ensure that it continues to meet its public purpose, regardless of primary landownership. This oversight, in addition to agreements that RCID has with the local governments that have land within its jurisdiction, should discourage any departure from fulfillment of the objectives and purposes for which the district was established and provide protection against sudden and significant changes within district boundaries. In addition, it appears that any new owner would be constrained by best business practices from making drastic changes to land use within RCID.

Federal and state agencies regulate RCID

The Reedy Creek Improvement District is subject to federal and state agency oversight that would help to ensure that it continues to meet its public purpose, regardless of who owns the majority of land within the district. Federal agencies such as the Environmental Protection Agency and Department of Transportation oversee district activities and services, as do state agencies such as the Department of Community Affairs, Department of Environmental Protection, South Florida Water Management District, and Department of Transportation.¹⁰ These agencies provide monitoring and enforcement mechanisms that would tend to discourage and prevent a new primary landowner from violating federal and state law and/or making rapid or major changes in district operations and services.

¹⁰ District officials agree that RCID is regulated by these entities.

Federal oversight. The Environmental Protection Agency (EPA) helps to ensure the integrity of RCID waters by overseeing district compliance with the federal Clean Water and Safe Drinking Water acts.¹¹ Under these laws, RCID is required to monitor and report on water quality in district canals, natural watercourses, lakes, wetlands, potable water systems, waste and reclaimed water systems, ground water, and swimming pools. If the district violated either law, EPA could impose civil penalties and require correction of the violation.

The federal government also helps to ensure the safety of RCID's natural gas distribution system. The U.S. Department of Transportation (USDOT) monitors compliance with the National Pipeline Safety Act, which provides for gas pipeline safety and environmental standards, pipeline inspections, and investigation of accidents and unsafe conditions.¹² The law requires the district to maintain plans for operations, maintenance, and emergency response activities and annually survey its natural gas distribution system. In the event of a violation of pipeline regulations, USDOT may impose an administrative, civil, or criminal penalty.

State oversight. At the state level, the Department of Community Affairs (DCA) monitors RCID's compliance with state comprehensive planning and special district laws. When RCID adopts a comprehensive plan or amendment, it submits it to DCA to review for compliance with Ch. 163, *Florida Statutes*.¹³ After conducting its review, DCA issues a public notice of intent to find the adopted plan or amendment either in or out of compliance.¹⁴ As

with any local government plan, if DCA finds the plan or amendment to be out of compliance, RCID would be required to take remedial action, or DCA may initiate a hearing before an administrative law judge; the judge will submit a recommended order to the Administration Commission for final agency action. If the commission finds that the plan or amendment is out of compliance, it will specify remedial actions and may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within RCID boundaries.¹⁵

DCA also monitors RCID's compliance with Ch. 189, *Florida Statutes*, the state's special district law. Under the law, RCID is required to submit reports to numerous state agencies, including DCA, the Auditor General, the Department of Financial Services, and the State Board of Administration Division of Bond Finance (see Exhibit 4 for major reporting requirements by agency). If RCID fails to comply with these reporting requirements, DCA can initiate action, including technical assistance or enforcement (e.g., declare the special district inactive, legal action).

The Department of Environmental Protection (DEP) and South Florida Water Management District (SFWMD) also oversee RCID activities related to the environment and water quantity. For example, DEP and SFWMD monitor the district's compliance with Ch. 373, *Florida Statutes*, the Water Resources Act, which regulates construction and operation of storm water management systems; management and storage of surface waters; withdrawal, diversion, storage, and consumption of water; and wetlands permitting. Under this law, SFWMD issues RCID consumptive use permits for potable and industrial water use and for de-watering during construction projects. If SFWMD has reason to believe that a violation of any provision of Ch. 373, *Florida Statutes*, occurred, is occurring,

government that adopted the plan or plan amendment; (2) an adjoining local government; and (3) persons who own property, reside, or own or operate a business within the boundaries of the local government.

¹⁵ District officials report that RCID does not currently receive any state funds.

¹¹ The Florida Department of Environmental Protection administers the laws for the EPA.

¹² The Florida Public Service Commission administers the law for the USDOT.

¹³ Other state agencies, including regional planning councils, water management districts, the Departments of State, Transportation, Environmental Protection, and Agriculture, and the Florida Fish and Wildlife Conservation Commission also review RCID's comprehensive plan and amendments and issue recommended objections to DCA. Orange and Osceola counties also review and provide comments on the district's plan and amendments.

¹⁴ Pursuant to s. 163.3184, *F.S.*, an "affected person" can challenge DCA's decision that a comprehensive plan or plan amendment is, or is not, in compliance. Affected persons include (1) the local

or is about to occur, it may serve RCID a written complaint requiring the district to take necessary corrective action within a reasonable time.

**Exhibit 4
As a Special District, RCID Must Annually Report to
Several State Agencies**

Agency	Reporting Requirement
Auditor General	Annual financial audit report
Department of Community Affairs	Creation documents and amendments Special district map and amendments Registered agent and office initial designation Disclosure of public financing
Department of Financial Services	Annual financial report with a copy of the annual financial audit report attached Public depositor annual report Public deposit identification and acknowledgment form
Department of Management Services, Division of Retirement	Actuarial impact statement for proposed plan amendments Defined contribution report Actuarial valuation report
Department of Revenue Property Tax Administration	Truth-in-millage Truth-in-millage compliance package report
State Board of Administration, Division of Bond Finance	Advance notice of bond sale Bond information form/bond disclosure form Bond verification form Final official statement IRS form 8038

Source: Florida Department of Community Affairs.

In addition, DEP and the U.S. Army Corps of Engineers have oversight over development within RCID boundaries through a 20-year “master permit” that was initiated by the Walt Disney World Co.¹⁶ Under the agreement, the company purchased 8,500 offsite acres of ecologically sensitive land and gave it to The Nature Conservancy to manage as a wilderness preserve. The company then modified its property development plan so that it would

¹⁶ In 1991, the company negotiated with state and federal regulators to develop a long-term comprehensive permit agreement. The company and environmental officials agreed on a large-scale, off-site wetlands mitigation and conservation plan.

affect 446 acres of wetlands and placed permanent conservation easements on 7,500 acres of its property. In exchange, the company established a long-term conceptual development plan that details areas to be developed and wetlands to be taken or mitigated. However, the agreement provides that the company must apply to SFWMD for construction-related permits on a project-by-project basis. If SFWMD has reason to believe that the appropriate permits have not been obtained, it may serve the alleged violator a written complaint ordering corrective action within a reasonable time.

The Department of Transportation (DOT) also has regulatory authority over the district. For example, DOT ensures that RCID biennially inspects all public access bridges within its jurisdiction in accordance with federal and state law.¹⁷ The district is required to provide the department a bridge inventory and bridge inspection reports, with maintenance needs identified. If RCID did not submit these documents to DOT, the department would notify the Federal Highway Administration, which would initiate enforcement action.

RCID has agreements with local governments

In addition to oversight by federal and state agencies, Reedy Creek Improvement District is bound by cooperative agreements with Orange and Osceola counties; until they expire, the terms of these agreements apply to RCID, regardless of primary landownership. These agreements relate to a wide range of government services, including water and wastewater, transportation, and joint planning (see Appendix B for a more detailed description of some current agreements between RCID and Orange and Osceola counties).

For example, the district currently has a water and wastewater service territorial agreement with Orange County that establishes procedures for the mutual provision of water and wastewater services to contraction/expansion areas. The primary goal of the agreement is to prevent duplication of services and unnecessary expenditures on services to overlapping areas.

¹⁷ Chapter 23 CFR 650C, U.S.C., s. 335.074, F.S., and Ch. 14-48, F.A.C.

The county and district established the agreement in 1992; it has a 40-year term.

In 1992, RCID entered into an agreement with Osceola County for the construction of the Osceola Parkway, a toll road. Two miles of the parkway are owned and maintained by the district. The project was financed with transportation improvement bonds issued by the county and guaranteed by the district. The county intended to pay a portion of the project's debt service with toll revenue. However, toll revenue was significantly less than estimated, with the district paying more than anticipated to compensate for the shortfall. Therefore, in 2003 the county and RCID entered into an amended and restated bond guarantee agreement that will remain in effect until the debt is retired.

Adherence to best business practices would discourage dramatic changes to land use within RCID

A final factor that would constrain any new owner of RCID property and ensure that the district continues to meet its public purpose is that the property within the Reedy Creek Improvement District is a valuable asset that could be negatively affected by sudden or dramatic changes in land use, operations, and services within the district. If a new entity purchased these assets, from a sound business perspective, it would need to maintain the current character of the attractions, accommodations, and other businesses within district boundaries. Any action other than maintaining these assets at the present level could have a negative effect on customer satisfaction and may dilute the business' profit level and ability to achieve an acceptable return on its investment.

Question 4: What steps could the Legislature take to enhance current accountability mechanisms?

OPPAGA determined that in general, current accountability mechanisms are sufficient to ensure that if primary landownership changed, the Reedy Creek Improvement District would continue to meet the public purpose expressed in

its special act and in other legislation.¹⁸ However, if the Legislature wished to provide additional safeguards to prevent a new primary landowner from making radical and rapid changes to district services, operations, and development activities, it could consider two options. First, it could establish criteria for recalling members of the RCID board to prevent members from being replaced without cause at the discretion of a new primary landowner. Second, the Legislature could make development of land within RCID subject to Ch. 380, *Florida Statutes*, which provides state-level coordination and oversight of growth management for developments of regional impact.

Establish criteria for recalling board members

Under current law, it appears that RCID's board members could be replaced quickly and without cause at the discretion of a new primary landowner. This could suddenly deprive RCID of years of collective experience with district issues as well as the demonstrated commitment to the agenda previously followed by the board. State policymakers could encounter new and different primary owner issues articulated by new board members with less understanding of current practices and their historical basis.

RCID's board member elections currently are governed by the process established in the special act that does not place conditions on the landowners' right to recall an elected board member.^{19,20} If the Legislature wished to place additional safeguards against any RCID primary landowner's ability to quickly replace all sitting board members at its discretion, it could amend s. 189.4051, *Florida Statutes*, to require as a

¹⁸ In April 2004 the Attorney General's office opined, "it appears that the sale of Disney property to another entity would not affect the legal status of the district," and that "...the powers and duties of the board of supervisors are prescribed by the legislative act and would not be altered by a change in ownership of the property within the district."

¹⁹The special district election process in Ch. 189, *F.S.*, does not apply to RCID because the district has too few residents to meet the urban area requirement. According to 2000 Census data, the district's cities of Bay Lake and Lake Buena Vista have a combined population of only 39 residents.

²⁰ In addition, it is unclear whether a board member would lose eligibility to serve if the option to repurchase were exercised and a sitting board member no longer owned land within RCID.

prerequisite to recalling an elected RCID board member that grounds for such recall be limited to malfeasance, misfeasance, neglect of duty or other just causes, and be stated in the petition for recall.²¹

Make development of land within RCID subject to Ch. 380, F.S.

The district is required to submit a comprehensive plan for review and approval as part of state growth management regulation. However, RCID maintains that development within district boundaries is not subject to s. 380.06, *Florida Statutes*, the development of regional impact (DRI) review process.²² Without a DRI requirement, a new primary landowner with a different vision for development of their RCID property could implement construction projects without

- mandatory advance public notice of development plans;
- critical review on a plan-by-plan basis; and
- mandatory public input on issues such as traffic, public facilities, and the jobs/housing balance.

Although Reedy Creek’s special act provided that their jurisdiction would be exclusive of any law subsequently enacted providing for land regulation, it does not appear that this language has ever been interpreted by an appellate court. If the Legislature wished to place additional safeguards on the development of property within RCID, in the course of considering streamlining and revising the DRI process, it could specifically provide for the revised review process to apply to property within the district.²³ The 1977 Attorney General’s opinion finding that the EPCOT addition to the Disney World complex was not subject to DRI review relied on pre-emptive language in the special act and on the administrative determination made by the predecessor agency of DCA. A specific statutory reference in Ch. 380, *Florida Statutes*, would state the Legislature’s intent to allow scrutiny of significant land developments within district boundaries.

Agency Response _____

In accordance with the provisions of s.11.51, *Florida Statutes*, we submitted a draft of our report to the Reedy Creek Improvement District district administrator for review and response. The district administrator’s written response has been reproduced herein beginning on page 15.

²¹The municipal election recall procedure in s. 100.361, *F.S.*, requires a statement in 200 words or less that identifies at least one of seven grounds for recall provided in that section, including drunkenness, incompetence, permanent inability to perform duties, and felony conviction involving moral turpitude, in addition to those mentioned above.

²² Florida Attorney General legal opinion number AGO-77-44 stated, “absent a judicial or legislative declaration to the contrary, s. 23 of Ch. 67-764, *Laws of Florida*, exempts the Reedy Creek Improvement District (Disney World) from the Ch. 380, *F.S.*, requirements for a development of regional impact.”

²³Currently, staff of the Florida Senate Committee on Comprehensive Planning is conducting an interim project reviewing the state’s growth management policy. The project is focusing on several goals, including enhancing public participation at all levels of growth management decision-making and revising the DRI process. The committee members will review the interim report and decide whether to provide specific recommendations for legislative consideration.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

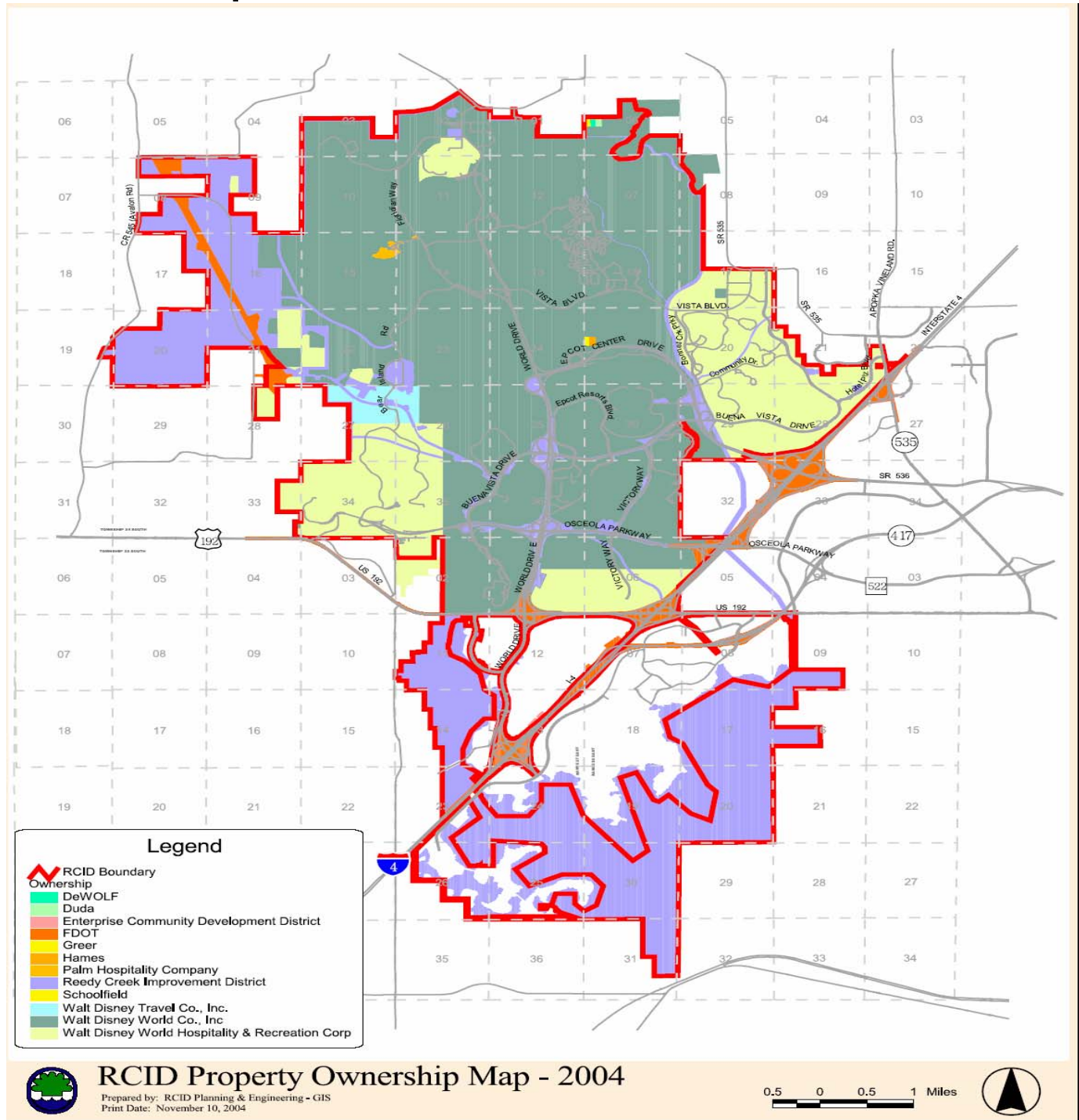
Project supervised by Debbie Gilreath (850/487-9278)

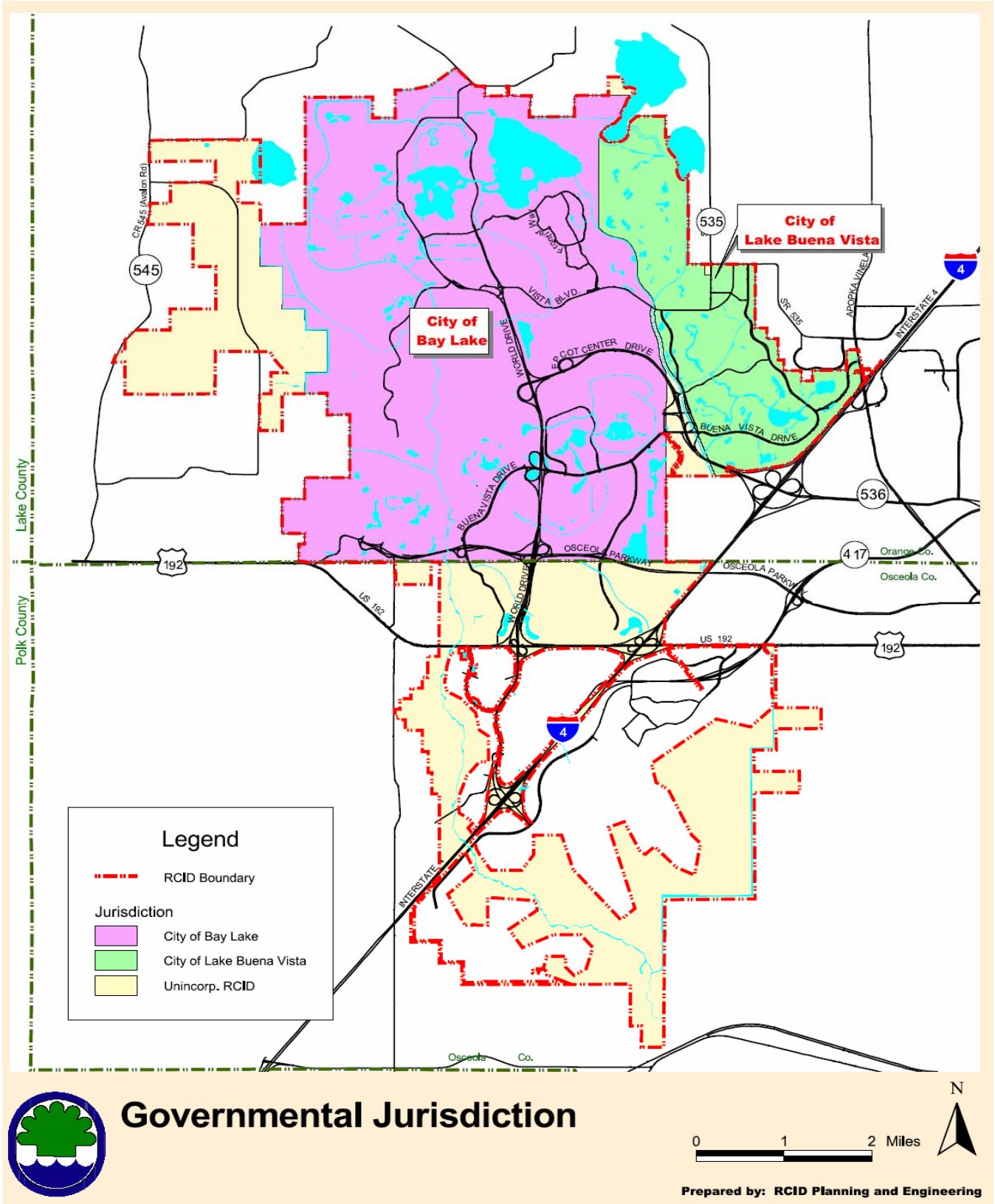
Project conducted by Kara Collins-Gomez (850/487-4257) and Jan Bush (850/487-9162)

Gary R. VanLandingham, OPPAGA Interim Director

Appendix A

District Maps





Appendix B

RCID Agreements with Orange and Osceola Counties

Government Entity	Agreement	Parties to Agreement	Term of Agreement
Orange County	Water and Wastewater Service Territorial Agreement establishing procedures for mutual provision of water and wastewater services to contraction/expansion areas	Orange County RCID	February 4, 1992 - February 4, 2032
	Orange County/Reedy Creek Improvement District Interlocal Joint Planning Agreement for Little Lake Bryan Contraction Area	Orange County RCID	May 14, 1993 - May 13, 2008
	Interlocal Joint Planning Area Agreement for development of Bonnet Creek Resort Area	Orange County RCID	August 30, 1993 - December 31, 2010
	First Amendment to the Interlocal Joint Planning Area Agreement for Bonnet Creek Resort Area	Orange County RCID	May 13, 1994 - December 31, 2010
	Interlocal Development Agreement for development of Bonnet Creek Resort Area	Orange County RCID	June 7, 1995 - December 31, 2010
	Amendment to Water and Wastewater Service Territorial Agreement moving the Little Lake Bryan development from RCID to county service area	Orange County RCID	June 9, 1995 - February 4, 2032
	Wholesale Wastewater Letter Agreement to provide service to Horizon West	Orange County RCID	January 28, 1998 - January 28, 2013, with two automatic 5-year extensions
	Wastewater Letter Agreement #2 to provide service to property located on South Apopka Vineland Road	Orange County RCID	July 13, 1999 - July 13, 2009, with two automatic 5-year extensions
	Water Conservation II Agreement for the Delivery and Use of Reclaimed Water from the McLeod Road and South Water Reclamation facilities to RCID	Orange County City of Orlando RCID	November 8, 1999 - November 8, 2019, with automatic renewal from year to year beyond initial 20-year term
	Joint Planning Area Interlocal Agreement to provide for joint planning of a 46-acre tract at the northwest edge of the RCID boundary	Orange County RCID	June 27, 2000 - June 1, 2002, however, term shall be extended through December 31, 2010, if planned development is approved by Orange County on or before June 1, 2002
	Amendment to Interlocal and Development Agreement for development of Bonnet Creek Resort Area	Orange County RCID	September 17, 2002 - December 15, 2018
Osceola County	Interlocal Mutual Aid Agreement for Fire Protection and Rescue Services, managed by City of Kissimmee Fire Department	Osceola County RCID	May 28, 1986, until cancelled by either party
	Interlocal Mutual Aid Agreement for Fire Protection and Rescue Services, managed by City of Kissimmee Fire Department	Osceola County West 192 Fire District City of Kissimmee RCID	December 4, 1989, until cancelled by either party
	Osceola Parkway Agreement to fund the construction of the 12.4 mile toll road	Osceola County RCID	July 1992 until bonds used to finance project are retired; September 2003, RCID and county entered into an amended and restated bond guarantee agreement

Government Entity	Agreement	Parties to Agreement	Term of Agreement
Osceola County	Interlocal Joint Planning Agreement for Celebration Contraction Area, providing for de-annexation of land within RCID to Osceola County and for development into Celebration	Osceola County Madera Land Co., Inc. RCID	June 15, 1992 - June 15, 2007, or expiration of the development order to be issued pursuant to development of regional impact agreement
	First Amendment to Interlocal Joint Planning Agreement for Celebration Contraction Area, providing for substitution of Celebration Company for Madera Land Co., Inc., and for implementation of the amendment to Osceola County's Comprehensive Plan required to permit development of Celebration	Osceola County Celebration Company RCID	May 3, 1993 - June 15, 2007, or expiration of the development order to be issued pursuant to development of regional impact agreement
	Concurrency Management Agreement, providing for sharing of the cost to construct the road improvements needed to support development of Celebration and the All Star Resort	Osceola County RCID	March 1, 1994, until all bonds issued to finance the road improvements have been retired or April 30, 2034, whichever occurs first
	Drainage Fee Agreement, authorizing Osceola County to discharge storm water from a holding pond, a road and easement related to County Road-545 Realignment into RCID's surface storm water control system	Osceola County RCID	October 26, 2000, until Osceola County intentionally ceases discharging storm water into the RCID storm water facility or until RCID exercises its right to terminate if the county breaches the agreement
	Drainage Fee Agreement, authorizing Osceola County to discharge storm water from the site of development of Funie Steed Road into RCID's surface storm water control system	Osceola County RCID	July 1, 2004, until Osceola County intentionally ceases discharging storm water into the RCID storm water facility or until RCID exercises its right to terminate if the county breaches the agreement

Source: Orange and Osceola county officials.

Appendix C

Response from the Reedy Creek Improvement District

December 9, 2004

Via Fax, E-Mail and Mail

Mr. Gary R. VanLandingham
Interim Director
Office of Program Policy Analysis and Government Accountability
111 West Madison Street, Room 312
Claude Pepper Building
Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

Thank you for the opportunity to respond to OPPAGA's draft report. The report and brevity of this response is indicative of the cooperative and professional working relationship between the Reedy Creek Improvement District (RCID) and OPPAGA as this project was undertaken.

The District concurs with OPPAGA's general conclusion that "current accountability mechanisms are sufficient to ensure that if primary landownership changed, RCID would continue to meet the public purpose outlined in its special act and in other legislation." The existing accountability mechanisms protect the public and have done so for nearly 40 years, nurturing an environment in which Disney has invested approximately \$12 billion and grown its employment to more than 55,000.

While the study suggests additional safeguards the legislature could potentially consider to prevent a new primary landowner from wavering from the historical course of action, the report itself demonstrates that statutory change is unnecessary under the current landowner.

With regard to the recall process for the RCID Board of Supervisors, it is our position that the public is already protected because under common law, board members may only be removed for malfeasance or other wrongdoing.

Similarly, making a new primary landowner within RCID subject to the DRI process is unnecessary because of the public scrutiny under which all projects are developed in RCID. These accountability mechanisms include the comprehensive planning process and the many federal and state laws and local agreements described in the report that help to ensure RCID meets its public purpose. Further, RCID is responsible for providing and funding nearly all services and infrastructure for the primary landowner and has a strong track record of working with adjoining jurisdictions to deal with any impacts development within RCID may have on them.

Mr. Gary R. VanLandingham
December 9, 2004
Page Two

RCID is proud of its role in advancing the state's economic growth by facilitating the development of a world-class tourist destination. Since its creation by the Florida Legislature in 1967, RCID has facilitated \$785 million worth of public infrastructure – including roads, utilities and wastewater treatment facilities – at no cost to the residents of Central Florida. We believe RCID has been a responsible steward of the charge granted to it by the legislature and has consistently and admirably performed its function. As the draft report also notes, “key stakeholders report that the Walt Disney World Co. has been a good corporate citizen.”

In conclusion, the establishment of RCID may historically prove to be one of the most beneficial economic development initiatives ever negotiated by the Florida Legislature. RCID strongly discourages consideration of any option that could interfere with this success.

Sincerely,

/s/
Ray Maxwell
District Administrator