

# SUNSHINE WATER CONTROL DISTRICT

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## Operational Audit



**BOARD MEMBERS, DISTRICT MANAGER, DISTRICT ATTORNEY,  
AND DISTRICT ENGINEER**

The Sunshine Water Control District Board Members, District Manager, District Attorney, and District Engineer who served during the period October 2011 through August 2013 are listed below:

Board of Supervisors

Jose "Joe" Morera, President  
Emily Heafy, Vice President  
Daniel Prudhomme, Secretary from March 13, 2013  
David L. Hulett to March 12, 2013

District Manager

Craig Wrathell  
Wrathell, Hunt & Associates, LLC

District Attorney

Terry Lewis, Esq.  
Lewis, Longman & Walker, P.A.

District Engineer

IBI Group, Inc.

The audit team leader was Diana G. Garza, CPA, and the audit was supervised by M. Hardee Ratliff, Jr., CPA. Please address inquiries regarding this report to Marilyn D. Rosetti, CPA, Audit Manager, by e-mail at [marilynrosetti@aud.state.fl.us](mailto:marilynrosetti@aud.state.fl.us) or by telephone at (850) 412-2881.

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## SUNSHINE WATER CONTROL DISTRICT

### EXECUTIVE SUMMARY

Our operational audit of the Sunshine Water Control District (District) disclosed the following:

#### GENERAL MANAGEMENT CONTROLS

Finding No. 1: The District had not adopted policies and procedures for the mitigation, detection, and reporting of fraud.

#### CONTRACTUAL SERVICES

Finding No. 2: District records did not adequately document the basis for selecting the District Manager, District Engineer, and District Attorney to provide professional services. Also, the District had not, since entering into contracts for these services in 2007, 2008, and 2009, respectively, employed a competitive selection process for these services.

Finding No. 3: Payments to the District Engineer were not always in accordance with rates or positions established in the contract. Also, District records did not evidence the specific basis upon which increases in the District Manager's compensation were determined.

Finding No. 4: The agreements and invoices related to the 2010-11 and 2011-12 fiscal year financial audits were not in accordance with Section 218.391(7), Florida Statutes.

#### MAJOR CAPITAL PROJECTS FINANCING

Finding No. 5: The District did not include all related costs or projects in developing its capital improvement plan used as the basis for determining the amount of needed long-term financing.

#### PUMP STATIONS REPLACEMENT PROJECT

Finding No. 6: The District did not procure engineering services for the pump stations replacement project, contrary to Section 287.055, Florida Statutes.

Finding No. 7: District records did not always evidence for the pump stations replacement project that subcontractors were selected, and materials or equipment purchased, using the competitive bid process required by the construction management company contract. Also, the District did not rebid certain work although the scope of the work significantly changed after the subcontractor was selected.

Finding No. 8: The District needed to enhance its procedures for monitoring and processing change orders on construction projects.

#### DISBURSEMENTS

Finding No. 9: District records did not adequately document the authorized public purpose served by some expenditures.

#### PERSONNEL ADMINISTRATION

Finding No. 10: The District did not always prepare written performance evaluations, contrary to its Personnel Manual.

#### CAPITAL ASSETS

Finding No. 11: The District's policies and procedures over tangible personal property needed improvement.

**BACKGROUND**

The Sunshine Water Control District (SWCD or District) is a special-purpose local government that was established on July 10, 1963, by Chapter 63-609, Laws of Florida, under the authority of Chapter 298, Florida Statutes. The SWCD is a drainage district that manages water from the environment that is channeled into its 22 miles of canals and waterways to protect its property owners from flooding. The SWCD covers the central area of the City of Coral Springs and comprises a total of approximately 3,000 acres.

The District’s water control system consists of canals that convey water flow from north to south, terminating at the C-14 Canal. The system also includes numerous culverts allowing for system connections and water passage under roads, structures, and earthen obstacles. During periods of high canal and ground water level, the system is designed to discharge excess water south into the C-14 Canal by a forced-flow method utilizing pumps at two locations. For the District’s West Basin, four water pumps pump up to approximately 50,000 gallons of water per minute per each pump. For the District’s East Basin, four water pumps pump up to approximately 40,000 gallons of water per minute per each pump. This dispersing of excess water into the C-14 Canal is permitted and monitored by the South Florida Water Management District. Conversely, during periods of low ground water level, water flows to the District from the C-14 Canal by gravity, from south to north, allowing for the replenishment of ground water recharge system, used primarily for the benefit of the City of Coral Springs well fields.

The District is governed by a three-member Board of Supervisors (Board) elected by the owners of the property within the District for three year alternating terms. The Board exercises all powers granted to the District pursuant to Chapter 298, Florida Statutes. The Board has the responsibility for: 1) assessing and levying assessments; 2) approving budgets; 3) exercising control over facilities and properties; 4) controlling the use of funds generated by the District; 5) approving the hiring and firing of key personnel; and 6) financing improvements.

The Board contracts for a District Manager and administrative services, District Engineer (engineering firm), District Attorney, and employs a Field Superintendent and seven field staff to perform the District’s water control operations. The District also contracts with other third-party vendors as needed.

**FINDINGS AND RECOMMENDATIONS**

**General Management Controls**

**Finding No. 1: Fraud Policies and Procedures**

Policies and procedures for communicating and reporting known or suspected fraud are essential to aid in the detection and prevention of fraud. Such policies and procedures should clearly identify actions constituting fraud, incident reporting procedures, responsibility for fraud investigation, and consequences for fraudulent behavior. Fraud policies and procedures are necessary to educate employees about proper conduct, create an environment that deters dishonesty, and maintain internal controls that provide reasonable assurance of achieving management objectives and detecting dishonest acts. In addition, such policies and procedures serve to establish the responsibilities for investigating potential incidents of fraud, taking appropriate action, reporting evidence of such action to the appropriate authorities, and avoiding damage to reputations of persons suspected of fraud but subsequently found innocent.

The District’s Personnel Manual includes Policy No. 104 *Public Agency Ethics and Conduct* and Policy No. 108 *Standards of Ethical Conduct*. Although the Policies referred to the Code of Ethics for Public Officers and Employees, and

provided detailed information relating to ethical violations and what may constitute a conflict of interest, they did not identify actions constituting fraud, reporting procedures for suspected fraud, responsibility for fraud investigation, and consequences for fraudulent behavior.

In response to our inquiry, District management stated that the District was aware of the potential for fraud and provided compensating controls. While no instances of fraud were noted by us in the conduct of this audit, in the absence of formal fraud policies and procedures, there is an increased risk that a known or suspected fraud may be identified but not reported to the appropriate authority.

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**Recommendation:** The Board should revise its formal policies and procedures to identify actions constituting fraud, incident reporting procedures, responsibility for fraud investigation, and consequences of fraudulent behavior.

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<b>Contractual Services</b>
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**Finding No. 2: Acquisition of Professional Services**

As a matter of good business practice, procurement of services should be done periodically using a competitive selection process to provide an effective means of procuring services at the lowest cost consistent with desired quality. Absent use of a competitive selection process, the District’s ability to demonstrate the fair, equitable, and economical procurement of professional services may be limited. For professional services, it is imperative that criteria be established for the evaluation of potential contractors to ensure that the services obtained will be provided by individuals or firms best suited to meet the District’s needs. Such criteria could include professional certifications, past performance, workload and availability, and location of the individual or firm. Criteria may also be weighted to emphasize the relative importance of the criteria to the service being obtained.

During the period October 2011 through August 2013, the District paid \$954,425 for District Engineer services, \$142,617 for District Manager services, and \$203,284 for District Attorney services. Our review disclosed that the District’s procedures for procuring these services could be enhanced as discussed below.

**Selection of Firms.** Our review of the District’s selection of the District Engineer (in 2008), District Manager (in 2007), and District Attorney (in 2009) disclosed the following:

- **District Engineer.** Section 298.16, Florida Statutes, requires the District to appoint a District Engineer, who may be an individual, copartnership, or corporation. The request for qualifications (RFQ) to select the District Engineer indicated that the District would comply with the procedures established in Section 287.055, Florida Statutes, in the selection process. Board meeting minutes (June 11, 2008) indicate that the District Manager advised the Board to include the following selection criteria: professional qualification, past performance, workload, location, certifications, timing, and budget. The Board elected to have the four respondents provide presentations during its June 11, 2008, Board meeting and established a numerical one to four ranking system for applying the criteria with one being the best firm. After presentations by the four respondents, each Board member prepared a ranking sheet showing their individual ranking of the four respondents. The highest rated firm was then selected by the Board. However, the individual Board member ranking sheets did not indicate how the selection criteria were applied using the ranking system.
- **District Manager.** The District did not use an RFQ to acquire district management services. Rather, the District placed an advertisement in the newspaper for interested firms to submit pricing and qualifications information to the District. Minutes of the Board’s July 26, 2007, meeting indicated that four firms made presentations to the Board for management services. The minutes indicate that there was general discussion by the Board members and questions asked of each presenter by the Board members concerning matters such as pricing, accounting and budgeting services, management style, communication with the City and

residents of the District, professional liability insurance, financial strength of the firms, and transition planning. After the presentations, the Board voted unanimously to award the contract for management services to the District Manager. However, District records did not evidence the specific criteria used by the Board in evaluating the firms or the process used to rank the four firms.

- **District Attorney.** The RFQ for general counsel services did not establish criteria to be used during the evaluation process. Six responses were received by the District and three firms were selected to make presentations to the Board; however, absent criteria established to evaluate the responses and determine which firms would be invited to make presentations, the basis relied upon by the Board in making this decision was not evident. After the presentations, the Board ranked the firms one to three with one being the best firm. However, District records did not evidence the process used to rank the three firms.

The District has a responsibility to demonstrate proper stewardship over the expenditure of public funds, which includes maintaining sufficient evidence in its records to show the basis relied upon by the Board in selecting firms providing professional services to the District. While there was no specific requirement in law for the District to employ a specific competitive selection process for District Management and District Attorney services, the District recognized a need to use some form of a competitive selection process similar to that used for District Engineering services. The District's efforts in this regard could have been enhanced by documenting the specific criteria used in the evaluation and ranking process, which would have better demonstrated, of record, that the District selected these services in a fair, equitable, and economical manner.

**Periodic Competitive Selection of Services.** The District's contracts for District Management, District Engineer, and District Attorney services do not contain provisions defining a finite contract period and the District has not, since entering into contracts for these services in 2007, 2008, and 2009, respectively, employed a competitive selection process for these services to determine if other firms are willing to provide these services to the District at a lesser cost. Since the inception of these contracts, the fees for services have increased and, for the District Manager, services have been added. Periodically soliciting competitive proposals for these services would provide the District assurance that it is obtaining these services at the lowest possible costs consistent with desired quality.

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**Recommendation:** The District should enhance its procedures for acquiring professional services to ensure that evaluation criteria are established, and the ranking and evaluation of individuals or firms are documented in the District's records. In addition, the District should consider competitively selecting professional services on a periodic basis to evidence that such services are obtained at the lowest cost consistent with desired quality.

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### **Finding No. 3: Payments for Services**

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The District Engineer and District Manager were compensated in the manner described in their respective written contracts with the District. As discussed below, District records did not always evidence that payments to the District Engineer and District Manager were in accordance with the terms of the Board-approved contracts.

**Payments to District Engineer.** Of the \$954,425 paid to the District Engineer during the period October 2011 through August 2013, \$318,638 was for a pump stations replacement project, \$39,041 was for a culvert repair project, \$587,877 was for general services and meetings, and \$8,869 was for other miscellaneous work. The District's July 2008 written contract with the District Engineer established two methods to be utilized for compensation: lump sum amount and hourly personnel rates. The contract provided that hourly personnel rates would be utilized for services or projects where the scope of services is not clearly defined, and for recurring services or other projects where the District desires the use of the hourly compensation rates outlined in Schedule A of the contract. Additionally, the contract provided for the renegotiation of hourly rates on the annual anniversary of the contract.

Although the contract established hourly rates for services, invoices submitted for payment were not, in some instances, in sufficient detail to demonstrate that compensation was in accordance with the terms of the contract. Initially, invoices submitted from October 2011 to November 2012 did not include the hourly breakdown. In December 2012, several invoices for services from March through November 2012 were revised to include the hourly breakdown and all invoices issued subsequently included the hourly breakdown; however, the revised invoices included rates that were not in accordance with the established rate schedule and included positions that were not included in the rate schedule provided in the contract, as follows:

- The contract's hourly rate schedule established an hourly rate of \$195 for the Managing Principal but the invoices submitted for payment included an hourly rate of \$225. The rate schedule also included \$41 per hour for Administrative personnel, but invoices included rates of \$65 and \$54.90 per hour.
- Hourly rates for the following positions were not included in the rate schedule but were invoiced: Engineer (\$85 per hour), Senior CADD Technician (\$95 per hour), and Senior Transportation Engineer (\$175 per hour).

District records did not evidence annual renegotiations of the hourly rates since inception of the contract. Based on our review of invoices paid during the period October 2011 through August 2013, invoices totaling \$395,891 were not sufficiently detailed to demonstrate compliance with the contract rates, \$11,273 was billed for positions not included on the rate schedule, and \$17,474 was billed in excess of contract rates for positions included on the rate schedule.

Absent detailed invoices describing the hourly rate charged and the number of hours billed, and an adequate pre-audit of detailed invoices submitted, the District has limited assurance that payments made for services rendered are in compliance with the contract.

**Payments to District Manager.** The \$142,617 amount paid to the District Manager during the period October 2011 through August 2013 was based on compensation provisions included in the written contract dated September 12, 2007. The contract with the District Manager provided that the District Manager would initially be paid \$48,000 annually for various services categorized as financial accounting, management, recording, and special assessment services<sup>1</sup>. The contract also provided for price adjustments to be considered each twelve-month period to compensate for market conditions, and the anticipated type and amount of work to be performed during the next twelve-month period. The contract further provided that fees for subsequent fiscal years would be adjusted by the Consumer Price Index (CPI), but in no event would the resulting increase be more than five percent per annum; however, the contract did not indicate the month or specific CPI index that would be used. The CPI is published monthly by the U.S. Bureau of Labor Statistics and is presented in various ways. For example, the CPI is presented as unadjusted or seasonally adjusted; for all urban consumers and for urban wage earners and clerical workers; and by size of city or regional location within the country; and the CPI could include all items or specified expenditure groups, such as food or energy. The annual fee paid to the District Manager for services increased by 3.5 and 3 percent for the 2008-09 and 2009-10 fiscal years, respectively, and by 1.5 percent each fiscal year thereafter. District records did not document the specific basis upon which the increases in the District Manager's compensation were determined.

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<sup>1</sup> Subsequent to the September 2007 contract, the Board approved contract amendments for the addition of human resources services (\$6,000 annually, approved October 2010) and additional accounting services for bonds (\$13,500 annually, approved July 2011).

**Recommendation:** The District should enhance its procedures to ensure that invoices submitted by the District Engineer are in sufficient detail, and compensation billed is determined to be in accordance with contract terms prior to payment. The District should also obtain from the District Engineer sufficiently detailed documentation to support payments made and take appropriate action to recover overpayments. Additionally, the District should enhance its procedures to document the specific basis upon which increases in the District Manager’s compensation are determined.

**Finding No. 4: Auditing Services**

Pursuant to Section 218.39, Florida Statutes, the District must provide for an annual financial audit. The audit must be conducted by an independent certified public accountant selected pursuant to Section 218.391, Florida Statutes. Section 218.391(7), Florida Statutes, requires a procurement of audit services to be evidenced by a written contract that includes a provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract.

In December 2007, the District entered into a contract with an auditing firm for auditing services. Under the terms of the contract, the contract would apply to audits for the 2006-07 fiscal year and each fiscal year thereafter through the 2011-12 fiscal year, provided that the District Manager renewed the contract for each fiscal year subsequent to the 2006-07 fiscal year. For the 2007-08 through 2011-12 fiscal year audits, engagement letters, approved by the District Manager, served to renew the contract and establish the terms and fees for the audits. The engagement letters for the 2010-11 and 2011-12 fiscal years provided for maximum fee amounts of \$15,300 and \$15,500, respectively, and the District paid the maximum amounts. The contract also required that invoices be rendered each month as work progressed and invoices submitted in sufficient detail to demonstrate compliance with the terms of the contract. However, the invoices the auditing firm submitted to the District provided no detail as to the amounts billed, such as the staff level or hourly rates for each staff level. As such, District records did not demonstrate that the amount invoiced and paid was in accordance with the contract.

**Recommendation:** The District should enhance its monitoring procedures over auditing services to ensure that invoices submitted are in sufficient detail, and compensation billed is determined to be accordance with contract terms prior to payment.

**Major Capital Projects Financing**

**Finding No. 5: Capital Improvement Plan**

The Government Finance Officers Association (GFOA) issues a series of guides for elected officials, including one regarding debt issuance. In this guide, the GFOA indicates that a capital improvement plan (CIP) identifies projects to be funded, funding sources, and project expenditures over a specified period. The CIP is a management tool that assists in establishing priorities to balance capital needs with all available financing, matching projects with appropriate funding alternatives, ensuring that debt-financed projects do not exceed legally permitted levels of debt issuance, and establishing a plan for debt issuance to meet expenditure requirements.

On April 28, 2011, the District issued \$12,880,000 of Special Assessment Revenue Improvement Bonds, Series 2011. The bonds were issued to finance the acquisition and construction of certain public infrastructure components of the District’s five-year CIP approved by the Board on December 8, 2010. The Series 2011 Bonds were issued pursuant to Chapter 298, Florida Statutes; Chapter 63-609, Laws of Florida; and a resolution adopted by the Board on

March 9, 2011. The total cost of the five-year CIP was estimated to be \$18,006,750 which, with the addition of a ten percent contingency of \$1,800,675, totaled \$19,807,425. According to the Official Statement associated with the bonds, the District planned to fund a portion of the costs of the five-year CIP in the amount of \$11,247,557 with bond proceeds and the balance of the costs in the amount of \$8,559,868 with internally generated funds and designated capital reserves. The bond indenture established a debt service reserve requirement as well as other restrictions and requirements relating principally to the use of the proceeds to pay for infrastructure improvements and the procedures to be followed by the District in assessing property owners to repay the bonds.

Of the \$18,006,750 of capital improvements listed in the five-year CIP, \$6,612,000 (37 percent) was planned for the replacement of pump station Nos. 1 and 2, and \$1,008,000 (6 percent) was planned for the replacement of 9 culverts and repairs to 15 culverts. Thus, the total estimated cost for the two pump stations and 24 culverts was \$7,620,000. An additional \$300,000 was planned for new culverts or future culvert replacements. Our review of the pump stations replacement project disclosed the following:

- A total of 26 change orders were issued for the pump stations replacement project increasing the project cost by a total of \$2,086,798 or 31 percent (see further discussion in finding No. 8). For example, one of the change orders on the pump stations replacement project was for the restoration of two culverts for a total of \$1,176,389, excluding engineering costs totaling \$176,441 paid to the District Engineer through November 2013 associated with the culvert restoration. The two culverts restored were not included on the list of 24 culverts to be replaced or repaired as contemplated by the District’s five-year CIP.
- According to District records, payments to the District Engineer related to the pump stations replacement project included \$918,259 for engineering costs for the period March 2009 through November 2013. The District Engineer’s Report for the Amended Water Control Plan, included as part of the Official Statement, indicated that engineering costs were included in the estimated \$6,612,000 cost of the pump stations replacement project shown in the District’s five-year CIP. However, District records did not evidence that the \$6,612,000 cost of the project shown in the five-year CIP included engineering costs.

Given the numerous change orders increasing the project cost and the apparent omission of engineering costs from the five-year CIP, the actual costs of the pump stations replacement project was considerably more than what the District estimated costs would be. Failure to accurately estimate the scope and costs of capital improvements increases the District’s risk that sufficient resources will not be available to fund all needed improvements.

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**Recommendation:** The District should ensure that all project costs are considered in preparing its five-year CIP to ensure that adequate funds are available for all needed projects, particularly when long-term financing will be needed.

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<b>Pump Stations Replacement Project</b>
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According to District personnel, the two new pump stations replaced existing 45-year old facilities that were a critical part of the stormwater management system, serving approximately 16,000 landowners and 5,000 acres of residential and commercial lands in Coral Springs, Florida. The new pump stations included an emergency generator, diesel fuel storage tank, telemetry system, four electrical pumps, security system, and access and storage for maintenance and operations equipment.

<b>Finding No. 6: Project Engineering Services</b>
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Section 287.055, Florida Statutes, the Consultant’s Competitive Negotiation Act (CCNA), sets forth requirements for the procurement and contracting of professional services, including engineering services, for each project the basic construction cost of which is estimated to exceed \$325,000. The initial contract with the construction management

services company for the pump stations replacement project totaled \$6,639,031, which exceeded the threshold established in the CCNA. However, the District did not procure the engineering services for the project using the competitive selection process required by the CCNA. Rather, the District used the District Engineer for the project's engineering services. Absent utilization of the required competitive selection process, the District's ability to demonstrate the fair, equitable, and economical procurement of professional services is limited.

In response to our inquiry, the District Attorney indicated that the selection process used by the District in 2008 to acquire the services of the District Engineer was, in his opinion, in compliance with all substantive provisions of Section 287.055, Florida Statutes, and that Section 298.16, Florida Statutes, provides a separate authority for the appointment of water control district engineers and does not require the competitive selection specified by the CCNA. The District Attorney also indicated that among the reasons for the 2008 RFQ for District Engineer was the need for a thorough analysis by qualified engineers of everything that would need to be done in the way of District restoration including pump station renovation or restoration and design of new facilities if necessary. However, District records did not evidence contemplation of the pump stations project in the RFQ issued. Further, while Section 298.16, Florida Statutes, provides authority for the District to hire a District Engineer, nothing in Section 298.16, Florida Statutes, indicates that the District is not subject to the requirements of the CCNA for project costs that exceed the threshold indicated therein.

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**Recommendation:**     **The District should seek an Attorney General's opinion concerning the applicability of Section 287.055, Florida Statutes, for engineering services when estimated project costs exceed the threshold indicated therein.**

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#### **Finding No. 7: Awarding of Subcontractor Contracts**

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The District employed a construction management company for the pump stations replacement project. The construction management company was responsible for all scheduling and coordination in both design and construction phases and was generally responsible for the successful, timely, and economical completion of the project. The District entered into a guaranteed maximum price (GMP) contract with the construction management company. A GMP contract allows for the difference between the actual costs of the project and the GMP amount, or the net cost savings, to be returned to the District. A GMP contract requires District personnel to closely monitor construction costs and the award of bids to subcontractors.

Section 2.3.2.1 of the contract with the construction management company required the construction management company to obtain a District-approved list of subcontractors and suppliers of materials or equipment. Our review disclosed the following instances in which District records did not evidence that the construction management company selected subcontractors, or purchased materials or equipment, using the required competitive bid process:

- The District utilized advance procurements of certain specialized equipment as a means to ensure that such specialized equipment would be available in a timely manner to facilitate timely completion of the project. The Board approved the advance procurement purchase of equipment totaling \$1,391,467 for pumps (\$795,367), emergency generators (\$418,000), and controls (\$178,100). District records evidenced the receipt of bids for the purchases of the pumps and emergency generators. Regarding the purchase of the controls, minutes of the Board's April 13, 2011, meeting indicated that the Board engineer "assured the Board that the contractor was selected based on an evaluation of an exhaustive set of proposals" and that three control companies provided proposals and qualifications to the construction management company. However, District records did not evidence that the controls were purchased using a competitive bid process.
- A subcontract totaling \$2,965,800 was awarded for various work to be performed. A letter dated May 9, 2011, from the construction management company recommended a specific company be awarded the

subcontract for this work and the District subsequently awarded the subcontract to the recommended company. The letter identified the work as: earthwork (including temporary cofferdam and dewatering), paving, underground utility, installation of pumps, demolition, concrete, and miscellaneous metals.

The District provided us summary bid sheets prepared by the construction management company for the following work: dewatering, concrete shell package, demolition, and miscellaneous metals. However, summary bid sheets were not provided for the remaining work identified above in the recommendation letter (i.e., temporary cofferdam, paving, underground utility, or installation of pumps). Further, the summary bid sheet for the concrete shell package appeared incomplete as no base quote was indicated for the company awarded the subcontract. Additionally, District records did not evidence the bids submitted by the companies.

- A subcontract totaling \$20,640 was awarded for stucco work. District records evidenced a bid summary sheet showing four bidders with bids of \$19,188, \$20,640, \$29,956, and \$34,038, respectively. Although the bid summary sheet indicated that the selected company submitted a bid for \$20,640, the contract indicated an original amount of \$37,800 and contained a handwritten notation adding \$14,000 for extra scaffolding, bringing the total to \$51,800. District personnel stated that there were additional costs due to elevation issues, and an additional 20 feet of exposed wall due to the canal embankment, that was not shown on the contract documents and because of the small amount of added scope, the work was not rebid to all the bidders. However, given that the cost of these services increased 151 percent from an initial bid of \$20,640 to a final contract amount of \$51,800, without rebidding the project, District records did not demonstrate that the services were acquired for the best possible cost.

Absent competitive selection of goods and services using the competitive bid process required by Section 2.3.2.1 of the contract with the construction management company, and rebidding subcontractor services when the scope of the services substantially changed after the subcontractor was selected, the District had limited assurance that it maximized cost savings under the GMP.

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**Recommendation:** The District should revise its procedures to require the retention of bids received from potential subcontractors and suppliers, and rebidding of subcontractor services when the scope of the services substantially changes after the subcontractor is selected.

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#### **Finding No. 8: Project Change Orders**

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Section 7.2.1 of the contract with the construction management company required that change orders addressing changes in the scope of work be signed by the engineer (District Engineer), the owner (Board), and the contractor (construction management company), and indicated that the signing of change orders by these parties signifies their agreement with all the required elements. A total of 26 change orders totaling \$2,086,798 were issued related to the pump stations replacement project. Our review of the change orders disclosed the following:

- Twelve change orders totaling \$357,633, including nine change orders ranging from \$23,769 to \$59,170, were not approved by the Board prior to the dates on which the work identified on the change order commenced. Also, for eight other change orders totaling \$354,638, including four change orders ranging from \$19,532 to \$269,171, District records did not evidence whether or not the Board approved the change orders prior to the dates on which the work commenced because District records did not indicate when the work commenced. The Board had not adopted a policy delegating approval authority for commencement of the work, prior to Board approval, for change orders below a specified cost threshold. Prior approval by the Board of the work included on a change order affords the District the opportunity to review the scope and cost of the work contemplated thus ensuring that the Board is in agreement with any such changes before the commencement of any work.
- Three change orders totaling \$273,819, including one for \$172,880, were not signed or dated by the contractor. Change orders signed by all involved parties establish responsibility and accountability for the work to be completed.

**Recommendation:** The District should ensure that its records demonstrate that any needed change orders are reviewed and approved, and signed by all applicable parties, prior to commencement of work contemplated by the change orders. If it is the Board’s intent to allow staff to approve commencement of work pursuant to change orders before Board approval, the Board should develop a policy providing the conditions under which such approvals are permitted.

**Disbursements**

**Finding No. 9: Questioned Expenditures**

Expenditures of public funds must, to qualify as authorized expenditures, be shown to be authorized by applicable law or ordinance; reasonable in the circumstances and necessary to the accomplishment of authorized purposes of the governmental unit; and in pursuit of a public, rather than a private, purpose. Additionally, the Attorney General has indicated on numerous occasions that documentation of an expenditure in sufficient detail to establish the authorized public purpose served, and how that particular expenditure serves to further the identified public purpose, should be present at the point in time when the voucher is presented for payment of funds. The Attorney General has further indicated that unless such documentation is present, the request for payment should be denied.

Our test of 15 expenditures totaling \$770,727, and review of other selected expenditure transactions, disclosed that the District records generally evidenced the public purpose of District expenditures. However, we noted the following expenditures totaling \$1,878 for which the authorized public purpose was not evident in District records:

- A bonus of \$1,000 paid to the former District Attorney based on his long years of service to the District.
- Field office expenses totaling \$728, including coffee (\$383) and holiday luncheons (\$345).
- Flowers for the District’s consulting engineer’s mother’s funeral totaling \$150.

Our review also disclosed that the District paid sales tax totaling \$1,410 for diesel fuel purchased by a subcontractor in connection with the pump stations replacement project, although the contract with the subcontractor stated that the subcontractor would coordinate direct purchases with the District as a part of the tax-exempt savings plan. District records did not evidence why the District did not elect to take advantage of this opportunity to avoid sales taxes.

**Recommendation:** The District should document in its public records the reasonableness of, and public purpose served by, the questioned expenditures totaling \$1,878. Additionally, the District should take advantage of its sales tax exemption status by making direct purchases of materials when possible.

**Personnel Administration**

**Finding No. 10: Performance Evaluations**

District Personnel Manual Section 209, Performance Evaluations, provides that “. . . formal performance evaluations are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals. The performance of all employees is generally evaluated according to an ongoing 12 month cycle, beginning at the fiscal-year end.” The Personnel Manual further provides that “Merit-based pay adjustments are awarded by the Sunshine Water Control District in an effort to recognize truly superior employee performance. The decision to

award such an adjustment is dependent upon numerous factors, including the information documented by this formal performance evaluation process.”

Although there was a written evaluation of the Field Superintendent performed by the District Manager, there were no written performance evaluations of the Field Superintendent’s employees. District personnel stated that those reviews have historically been verbal; however, such evaluations should be written so that they constitute formal evaluations as required by the Personnel Manual. In addition, when performance evaluations are not written, District records do not demonstrate feedback provided to employees, including identification of noted weaknesses and approaches for meeting goals. Further, although merit pay was not awarded during our audit period, when evaluations are not written, there is no documented performance basis for awarding merit pay.

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**Recommendation:** The District should ensure that performance evaluations are written in accordance with the Personnel Manual.

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<b>Capital Assets</b>
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**Finding No. 11: Tangible Personal Property**

To ensure proper accountability and safeguarding of tangible personal property (i.e., furniture, fixtures, and equipment, and vehicles), the District should maintain an adequate record of each property item and should perform comparisons of detailed property records with existing assets at reasonable intervals, and take appropriate action with respect to any differences. The District reported tangible personal property totaling \$233,457 as of August 31, 2013.

The District’s property records did not include all of the information necessary to properly identify and evidence the establishment of accountability for tangible personal property. The records included serial numbers and vehicle identification numbers; however, other information, such as model and year of vehicles and equipment, was not recorded. Additionally, the location and condition of property items was not indicated in the property records. Further, a physical inventory of tangible personal property had not been performed and reconciled to the District’s tangible personal property records during the period October 2011 through August 2013. District personnel indicated that the Field Superintendent performed a yearly count of the District’s tangible personal property for insurance purposes, and the District updates its listing of tangible personal property when new property is purchased or property is disposed of; however, District records did not evidence the yearly count or a reconciliation of the count to the property records.

The establishment of sufficiently detailed property records and periodic physical inventory of property items, with a reconciliation to the detailed property records, are necessary to provide a basis for accountability over and the safeguarding of tangible personal property. In the absence of such controls, there is an increased possibility that errors and misappropriation of property could occur and not be timely detected.

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**Recommendation:** To ensure proper accountability and safeguarding of tangible personal property, the District should maintain an adequate record of each property item. The District should also conduct an annual complete physical inventory of all tangible personal property and reconcile the physical inventory to the property records.

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**OBJECTIVES, SCOPE, AND METHODOLOGY**

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The Auditor General conducts audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. We conducted this audit pursuant to Section 11.45(3), Florida Statutes.

We conducted this operational audit from September 2013 to January 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this operational audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those controls.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

For those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

The scope and methodology of this operational audit are described in Exhibit A. Our audit included the selection and examination of various records and transactions occurring from October 2011 through August 2013, and selected actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and, as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

**AUTHORITY**

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA  
Auditor General

**MANAGEMENT'S RESPONSE**

Management's response is included as Exhibit B. The response was accompanied by attachments, which may be viewed on our Web site.

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**EXHIBIT A  
AUDIT SCOPE AND METHODOLOGY**

Scope (Topic)	Methodology
Organizational Issues	Reviewed the duties and responsibilities administratively assigned to the District and examined and reviewed documentation such as organizational charts and minutes of board meetings.
Written Policies and Procedures	Determined whether the District had written policies and procedures in place for major District functions.
Capital Assets	Tested transactions to determine whether expenditures of bond proceeds were made in accordance with restrictions contained in the bond resolutions. Determined whether records to account for tangible personal property purchased with bond proceeds were established, and proper accountability maintained by a periodic comparison of subsidiary ledgers with control accounts and a physical inventory of property acquired.
Long-Term Debt	Reviewed policies and procedures for administration of debt issued to determine compliance with applicable laws, rules, regulations, contracts, District policies and procedures, and other guidelines.
Procurement of Goods and Services	Tested transactions to determine whether expenditures were made in accordance with applicable laws, rules, regulations, contracts, District policies and procedures, and other guidelines.
Contractual Agreements and Expenditures	Tested contractual services payments to determine whether expenditures were made in accordance with applicable laws, rules, regulations, contracts, District policies and procedures, and other guidelines. Determined whether contractors were selected in accordance with applicable laws, rules, regulations, contracts, District policies and procedures, and other guidelines.
Board of Supervisor Election Process	Reviewed supervisor election policies and procedures for compliance with applicable laws, rules, regulations, contracts, District policies and procedures, and other guidelines.
Related-Party Transactions	For selected District officials, reviewed Department of State Division of Corporation records and District records to identify any potential relationships that represent a conflict of interest with District vendors.
Land Transactions for Rights-of-Way and/or Buffer Zones	Reviewed District actions related to land transactions for rights-of-way and/or buffer zones as to propriety and legal sufficiency.

**EXHIBIT B  
MANAGEMENT'S RESPONSE**



June 10, 2014

Mr. David W. Martin, CPA  
Auditor General, State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Enclosed are the Sunshine Water Control District's ('SWCD') responses to the tentative audit findings and recommendations of the Auditor General.

**Finding No. 1: The District had not adopted policies and procedures for the mitigation, detection, and reporting of fraud.**

SWCD response: No instances of fraud were discovered during the operational audit. There is no federal or state statute or regulation that obligates a local government to affirmatively adopt individual written policies regarding fraud. However, all entities doing business with the district are required to execute affidavits of public entity crimes swearing that they have not been charged with or convicted of any white collar crime, including fraud on a local government. Additionally, any evidence of fraud on the district by its employees or contractors will be investigated and prosecuted to the fullest extent of the law.

SWCD believes it has strong internal controls in place to prevent fraud. SWCD understands that it does not have a formal fraud reporting procedure. Therefore, SWCD is drafting and will present a Fraud Reporting Policy to the SWCD Board for consideration.

**Finding No. 2: District records did not adequately document the basis for selecting the District Manager, District Engineer, and District Attorney to provide professional services. Also, the District had not, since entering into contracts for these services in 2007, 2008, and 2009, respectively, employed a competitive selection process for these services.**

SWCD response: For Legal and Management services, there is no legal requirement to conduct a Request for Qualifications/Request For Proposals selection process. For both the selection of District Legal Counsel and District Manager, the Board relied upon Chapter 298.19 F.S. However, in both instances, the Board exceeded state statute and mimicked the process under Chapter 287.055 F.S., in selecting District Counsel and District Management. Thus, in both instances, the SWCD exceeded state statute.

For the RFQ for legal services, the Board advertised in a newspaper of general circulation (proof of publication attached for the Sun-Sentinel). Six responses were received from qualified legal

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[www.sunshinewcd.net](http://www.sunshinewcd.net)

**EXHIBIT B (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

firms. Those firms were R. Bruce Cranmer, P.A., Rothstein, Rosenfeldt, Adler, Caldwell, Pacetti, Edwards, Schoech & Viator, LLP, Lewis, Longman & Walker, P.A., Weiss, Serota, Helfman, Pastoriz, Cole & Boniske, P.L., and Becker & Poliakoff, P.A. Three of the six firms were shortlisted and invited to give presentations. Extensive presentations were provided by each firm with a question and answer session following. After this deliberative process, the Board unanimously ranked Lewis, Longman, & Walker as the #1 firm. Enclosed, please find the applicable May 13, 2009 and June 10, 2009 meeting minutes. All discussions and presentations occurred at publicly advertised Board meetings held at the City of Coral Springs City Hall Commission Chambers in accordance with the Sunshine Law.

Of note, SWCD is highly confident that its General Counsel selection process successfully performed as intended by the Sunshine Water Control District. Rothstein, Rosenfeldt, Adler (RFQ response attached) was not selected for presentation by SWCD. Convicted Ponzi schemer Scott Rothstein of Rothstein, Rosenfeldt, Adler was sentenced to 50 years in federal prison for masterminding a \$1.4 billion Ponzi scheme in June 2010 (approximately one year after responding to the SWCD RFQ for legal services). Lewis, Longman, & Walker continues to successfully serve the Sunshine Water Control District.

For the RFP/RFQ for District Management Services, the Board advertised in a newspaper of general circulation (proof of publication attached for the Broward Daily Business Review). Four responses were received from qualified management firms. Those firms were New Community Strategies, District Offices, LLC, Wrathell, Hart, Hunt & Associates, LLC, and Severn Trent Services. The four firms were invited to give presentations. Extensive presentations were provided by each firm with a question and answer session following. After this deliberative process, the Board unanimously ranked Wrathell, Hart, Hunt & Associates, LLC, as the #1 firm. Enclosed please find the applicable meeting minutes from the July 26, 2007 Sunshine Water Control District Board meeting. All discussions and presentations occurred at publicly advertised Board meetings held at the City of Coral Springs City Hall Commission Chambers in accordance with the Sunshine Law.

Of final note, SWCD is confident that its District Manager selection process performed as intended by the Sunshine Water Control District. Wrathell, Hunt & Associates, LLC continues to successfully serve the Sunshine Water Control District.

For District Engineering services, per Chapter 298.16 F.S., SWCD has specific authorization to appoint a District Engineer without being required to follow the RFQ process outlined by Chapter 287.055 F.S. In this instance, the Board exceeded state statute and mimicked the process under Chapter 287.055 F.S., in selecting the District Engineer.

For the RFQ for Engineering Services, the Board advertised in newspapers of general circulation (proofs of publication attached for the Sun-Sentinel, Miami Herald, and Palm Beach Post). Four responses were received from qualified engineering firms. Those firms were CH2M Hill, Craig A. Smith & Associates, Hydra Engineering, and Rhon Ernest-Jones Consulting Engineers (acquired by the IBI Group). The four firms were invited to give presentations. Extensive presentations were provided by each firm with a question and answer session following. After this deliberative process, the Board ranked Rhon Ernest-Jones Consulting Engineers as #1 firm and authorized staff to enter into negotiations. Enclosed please find the applicable May 14, 2008

**EXHIBIT B (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

and June 11, 2014 meeting minutes. All discussions and presentations occurred at publicly advertised Board meetings held at the City of Coral Springs City Hall Commission Chambers in accordance with the Sunshine Law.

Of note, SWCD is highly confident that its District Engineer selection process performed as intended by the Sunshine Water Control District. IBI Group (acquired Rhon Ernest-Jones Consulting Engineers) continues to successfully serve the Sunshine Water Control District. Pursuant to Chapter 298, Florida Statutes, the district engineer, attorney and manager's employment is reviewed each year at the district's annual landowner's meeting, as well as during budget preparation. These employees are terminable at will. The Sunshine Water Control District holds publicly advertised monthly Board meetings. At any of those meetings, District Manager, District Counsel, and District Engineering service providers can be terminated with a simple motion of a Board member and a majority vote of the Board. The SWCD Board has a Board of three and therefore, only a motion and an affirmative vote of two of the three Board members is required to terminate the contract of said service providers. Moreover, SWCD presents a proposed district budget each May/June and adopts the Budget each September. During this four to five month process, the Board extensively reviews the costs and performance of all service providers and staff members. Lastly, it is clear based upon the fact that the SWCD Board made wholesale changes to District Management, General Counsel, and the District Engineer in the instances described above, the SWCD Board is fully capable and adept at determining the performance and cost-effectiveness of its service providers and staff. If a service provider is failing in its service delivery and/or increases its cost for services beyond what is accepted in the market, the Board has and will replace those ineffectual and/or costly service providers. In summation, SWCD strongly believes it has closely adhered to all statutory requirements and has in fact exceeded statutory requirements in these instances.

**Finding No. 3: Payments to the District Engineer were not always in accordance with rates or positions established in the contract. Also, District records did not evidence the specific basis upon which increases in which the District Manager's compensation were determined.**

SWCD response: The discrepancies that have been pointed out are in the process of being addressed. SWCD will draft a letter to the District Engineer outlining the deficiencies to be corrected for the period March through November 2012. The District Engineer will be required to cure any deficiencies noted and remit any required reimbursements to SWCD. Moreover, District Engineer will be required to provide an updated hourly rate schedule to be approved by the SWCD Board at a publicly advertised Board meeting.

Regarding District Manager, at the discretion of the SWCD Board, the contract can be amended to reflect the necessary scope of services to serve SWCD.

**Finding No. 4: The agreements and invoices related to the 2010-11 and 2011-12 fiscal year financial audits were not in accordance with Section 218.391, Florida Statutes.**

SWCD response: The District has recently gone through the auditor selection process. Auditor has agreed to amend fee schedule to be on a flat fee basis.

**EXHIBIT B (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

**Finding No. 5: The District did not include all related costs or projects in developing its capital improvement plan used as the basis for determining the amount of needed long-term financing.**

SWCD response: Sunshine Water Control District is more than 50 years old. Many of the original engineering drawings and final as-built drawings simply no longer exist. Further, original district construction, in many cases, was not completed due to geological conditions (dense cap rock that could not be excavated with available equipment). Hence, current district engineers and contractors were dealing with the unknown in many instances and had no alternative but to adjust design and construction plans, as these conditions were discovered.

**Finding No. 6: The District did not procure engineering services for the pump stations replacement project, contrary to Section 287.055, Florid Statutes.**

SWCD response: Thank you for your recommendation and guidance on this matter. SWCD will take the Auditor General's recommendations on this matter under advisement for future projects.

**Finding No. 7: District records did not always evidence for the pump stations replacement project that subcontractors were selected, and materials or equipment purchased, using the competitive bid process required by the construction management company contract. Also, the District did not rebid certain work although the scope of the work significantly changed after the subcontractor was selected.**

SWCD response: The vast majority of the bids were retained by SWCD and supplied to the Auditor General. For those instances bids were not retained, SWCD will for future projects adhere to your recommendations.

**Finding No. 8: The District needed to enhance its procedures for monitoring and processing change orders on construction projects.**

SWCD response: SWCD will develop a policy that will provide for and outline the parameters to allow staff to commence work pursuant to change orders before Board approval.

**Finding No. 9: District records did not adequately document the authorized public purpose served by some expenditures.**

SWCD response: Recognition of district employees who protect the property of more than 16,000 property owners of Coral Springs during flood disasters is legally authorized.

SWCD recognizes the Auditor General's recommendation regarding the bonus awarded to the former District General Counsel and will keep under advisement.

**Finding No. 10: The District did not always prepare written performance evaluations, contrary to its Personnel Manual.**

SWCD response: Noted and will be remedied in the future.

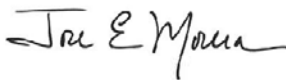
**Finding No. 11: The District's policies and procedures over tangible personal property needed improvement.**

**EXHIBIT B (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

SWCD response: SWCD does inventory all materially valuable property annually for insurance purposes. SWCD recognizes the Auditor General's recommendation regarding this matter and will enhance its inventory procedures.

In closing, SWCD recognizes and appreciates the findings and recommendations of the Auditor General. Perhaps, part of this Operational Audit process should dedicate a section of the Auditor General's report to outlining the fact that the SWCD has dramatically improved the functionality of the District's drainage system originally built nearly fifty years ago. SWCD replaced two antiquated liquid propane powered pump stations, built in the 1960s, that could not be manned and safely operated during hurricane force winds; thus shutting down the District's ability to drain water during the most critical times. SWCD is in the process of excavating and widening its main drain canals, which were not initially constructed according to the original design specifications and had multiple decades worth of silt buildup impeding water flows. SWCD also removed large trees and vegetation from canal banks that were blocking the District's ability to access vital canals for on-going maintenance, excavation, and widening work. Moreover, the vegetation that was illegally placed on Sunshine canal ROW has been removed to ensure that during high-wind hurricane events, those obstructions will not fall into vital main drain canals and impede or completely block critical drainage. Furthermore, the two 84" culverts, referenced in the Operational Audit, that were installed and were not a part of the District Engineer's original Capital Improvement Plan, were key components to drastically improving drainage flow to the main drain canals leading to one of the two SWCD pump stations. Moreover, all of the work described herein, will dramatically improve drainage in the Westchester area of the City of Coral Springs. Lastly, all of the work undertaken by SWCD was reviewed by the City of Coral Springs City Engineer in the summer of 2013. The City Engineer concurred with the SWCD Capital Improvement Plan being implemented. It is the mission of the Sunshine Water Control District to protect the life, health, safety, and property of its constituents, business owners, City Hall, and critical City public safety facilities. We are proud to say, under our watch, that our mission is well on the way of being accomplished!

Best regards,



Joe Morera  
President  
Sunshine Water Control District

Encl.

cc: Board of Supervisors  
District Counsel