



Interoffice Memorandum

July 21, 2017

TO: Mayor Teresa Jacobs and Board of County Commissioners

FROM: Mark V. Massaro, P.E., Public Works Director

CONTACT PERSON: Mark V. Massaro, P.E., Director
PHONE NUMBER: Public Works Department
(407) 836-7970

SUBJECT: Transfer of Deed from Orange County to Fisher Plantation Homeowners Association regarding Fisher Plantation Subdivision Retention Pond Tract A

The Fisher Plantation Homeowners Association (HOA) has requested Orange County to transfer the Deed for Fisher Plantation Retention Pond Tract A, PID 31-20-28-2833-00-001, Plat Book 67 pages 29 through 31 to them to own, operate, and maintain. The retention pond was originally conveyed to Orange County as "fee simple" and not to the "perpetual use of the public." This subdivision was recently annexed to the City of Apopka; however, Apopka does not want to assume neither ownership nor maintenance responsibility.

In accordance with Florida Statutes, a Resolution and County Deed have been prepared which transfer to the HOA all interest, authority and responsibility over the Fisher Plantation Retention Pond Tract A PID 31-20-28-2833-00-001. Approval of this Resolution also transfers responsibility for maintaining the Fisher Plantation Retention Pond Tract A, PID 31-20-28-2833-00-001 to the HOA.

The Orange County Attorney's Office and Risk Management Division have reviewed the resolution and found it acceptable.

Action Requested: Approval and execution of (1) Resolution of the Orange County Board of County Commissioners regarding Authorization to convey certain County property to Fisher Plantation Homeowners Association, Inc. regarding the transfer of Retention Pond Tract A PID 31-20-28-2833-00-001; (2) Storm Water Tract Maintenance Agreement between the Fisher Plantation Homeowner's Association, Inc. and Orange County, Florida; and (3) County Deed for conveyance of the retention pond Tract A PID 31-20-28-2833-00-001 to the Fisher Plantation Homeowners Association. District 2.

MVM/mw/wsv

Attachment(s)

BCC Mtg. Date: Aug. 1, 2017

STORM WATER TRACT MAINTENANCE AGREEMENT BETWEEN THE
FISHER PLANTATION HOMEOWNER'S ASSOCIATION, INC.
AND ORANGE COUNTY, FLORIDA

THIS AGREEMENT (the "Agreement") is entered into by and between the **Fisher Plantation Homeowner's Association, Inc.**, a Florida not-for-profit corporation (the "Association"), with a mailing address at 2180 West S.R. 434, Suite 5000, Longwood, FL 32779, and **Orange County**, a Charter County and political subdivision of the State of Florida (the "County"), with a mailing address at P.O. Box 1393, Orlando, FL 32802-1393.

RECITALS

WHEREAS, Fisher Plantation is a single-family residential development located in northwest Orange County, Florida;

WHEREAS, at the time it was developed, Fisher Plantation was located in the unincorporated area of Orange County;

WHEREAS, the plat for Fisher Plantation was approved by the Board of County Commissioners on October 3, 2006, and recorded in Plat Book 67, Pages 29-31;

WHEREAS, on or about April 11, 2017, Fisher Plantation was annexed into the City of Apopka after a majority of the owners of property within Fisher Plantation voted in favor of the annexation;

WHEREAS, a dry bottom, storm water tract is located within Fisher Plantation ("Storm Water Tract");

WHEREAS, the Storm Water Tract was dedicated in fee simple to the County, as reflected at

Plat Book 67, Page 29;

WHEREAS, on May 1, 2007, the Board of County Commissioners adopted a Resolution (“MSBU Resolution”) establishing a Municipal Service Benefit Unit (“MSBU”) for the maintenance of the Storm Water Tract, which Resolution is attached hereto as **Exhibit “A”**;

WHEREAS, because the Fisher Plantation has been annexed into the City of Apopka, the Association has requested that ownership of the Storm Water Tract be transferred to the Association pursuant to Section 125.38, Florida Statutes, and the County is in the process of effectuating such transfer of ownership through a County Deed;

WHEREAS, the MSBU will not expire until September 30, 2017, and the Association therefore desires that the County continue to maintain the Storm Water Tract until September 30, 2017; and

WHEREAS, the County agrees that it will continue to maintain and operate the Storm Water Tract until September 30, 2017.

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions set forth herein, the parties agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and form a material part of this Agreement.

2. **COUNTY DEED; PERMIT TRANSFER; AND FUTURE MAINTENANCE.**

(a) The Association agrees to accept the County deed conveying the Storm Water Tract to the Association.

(b) The Association agrees that that any permits previously issued to the County to maintain and operate the Storm Water Tract (“Permits”), including in particular the permit issued by

the St. Johns River Water Management District, shall be transferred to the Association effective October 1, 2017, and the Association agrees to do all things necessary to ensure that the Permits are transferred to the Association by that date.

(c) The Association agrees that, effective October 1, 2017, it shall become solely responsible for maintaining and operating the Storm Water Tract, and that, effective October 1, 2017, the County shall neither have any interest in, nor responsibility for, maintaining and operating the Storm Water Tract.

(d) The parties acknowledge that the MSBU will expire on September 30, 2017.

3. **COUNTY'S MAINTENANCE RESPONSIBILITIES.** The County's maintenance and operational responsibilities for the Storm Water Tract through September 30, 2017, shall be limited to normal and routine maintenance authorized by the MSBU.

4. **MSBU RESOLUTION.**

(a) The County shall maintain and operate the Storm Water Tract until September 30, 2017, with funds collected from the MSBU.

(b) The MSBU Resolution will terminate effective September 30, 2017.

5. **HOLD HARMLESS.** To the fullest extent permitted by law, the Association shall hold harmless the County from and against all claims, damages, losses, and expenses, including reasonable attorney fees and costs, arising out of, or resulting from, the performance of the County's operations under this Agreement.

6. **EFFECTIVE DATE.** This Agreement shall take effect upon date of approval by the County.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs,
Orange County Mayor
Date: *August 1*, 2017

ATTEST: Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

**FISHER PLANTATION HOMEOWNER'S
ASSOCIATION, INC.**

By: Susan Pettingill
Print Name: SUSAN PETTINGILL

Title: HOA. PRESIDENT

Date: JUNE 22, 2017

WITNESSES:

Deborah Hall
Print Name: Deborah Hall

Print Name: _____

**STATE OF FLORIDA
COUNTY OF ORANGE**

The foregoing instrument was acknowledged before me by Susan Pettingill of _____, who is known by me to be the person described herein and who executed the foregoing, this 22nd day of JUNE, 2017. S/he is personally known to me or has produced FIDEL as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 22nd day of June, 2017.

Meredith Canzonieri
Notary Public
Print Name: Meredith Canzonieri

My Commission Expires: 5/12/19



MEREDITH CANZONIERI
MY COMMISSION # FF 229958
EXPIRES: May 12, 2019
Bonded Thru Budget Notary Services

EXHIBIT "A"

**Municipal Service Benefit Unit Resolution
For Maintenance of Storm Water Tract
(Attached)**

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

**MAY - 1 2007 *Ju/10u* RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
ESTABLISHING A
MUNICIPAL SERVICE BENEFIT UNIT
FOR MAINTENANCE OF
RETENTION POND
IN**

INSTR 20070304878
OR BK 09252 PG 4534 PGS=4
MARITHA D. HAYNIE, COMPTROLLER
ORANGE COUNTY, FL
05/10/2007 11:20:47 AM
REC FEE 35.50

**Fisher Plantation
11/2007**

WHEREAS, Section 125.01 (01) (q), Florida Statutes, grants Orange County the power to establish Municipal Service Benefit Units (hereinafter known as the "MSBU") for any part of the unincorporated areas of Orange County; and

WHEREAS, Section 197.3632, Florida Statutes, authorizes the levy, collection, and enforcement of non-ad valorem assessments in the same manner as ad valorem taxes; and

WHEREAS, the Board of County Commissioners of Orange County (hereinafter known as the "Board") is the governing board of Orange County, Florida (hereinafter known as the "County") pursuant to its charter; and

WHEREAS, the County has received a request, in writing, from Kyle A. Sanders, Vice President (hereinafter known as the "Developer") of Cambridge Homes, K Hovnanian Company for the establishment of such an MSBU in that portion of the unincorporated area of Orange County to be known as Fisher Plantation subdivision and which is more fully described below; and

WHEREAS, the Board has determined that the establishment of an MSBU, the purpose of which is to provide for minimum maintenance of the county-dedicated retention pond as requested by the Developer, together with the other information pertaining to the operation of the proposed MSBU submitted therewith, to be feasible, necessary to facilitate the services desired, and in the public interest, and that the properties within Fisher Plantation subdivision will be benefited, now and in the future, and that the proposed MSBU should be created; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

1. The foregoing "WHEREAS" clauses are presumed to be true and correct and are hereby incorporated into the text of the resolution.
2. There is hereby established and created the **Fisher Plantation 11/2007 MSBU**, subject to final adjustment and approval as provided for in Section 197.3632, Florida Statutes, the boundaries of which appear on the recorded plat of **Fisher Plantation** subdivision, Plat Book 67, Pages 29 through 31, Section 31, Township 20, Range 28, Lots 1 through 81, Public Records of Orange County, Florida. The purpose of such MSBU is to provide for collection and disbursement by the County of such funds as may be necessary for the payment of administrative costs and appropriate reserves for cash balance and the minimum maintenance services to be performed on the retention pond located on

STATE OF FLORIDA, COUNTY OF ORANGE
I HEREBY CERTIFY this is a true and correct copy of a document
approved by the BCC on **MAY 1 2007**
MARITHA D. HAYNIE, COUNTY COMPTROLLER
By *[Signature]* **MAY 1 2007**
Deputy Clerk Date Seal



Tract "A" of Fisher Plantation subdivision, which pond have been dedicated to Orange County on the plat thereof and constructed in accordance with standards approved by the Orange County Public Works Division. The Developer understands that this MSBU is created solely for the purpose of maintaining the retention pond located on Tract "A" of Fisher Plantation subdivision, and that no other pond or infrastructure improvements located within the Fisher Plantation subdivision may be maintained, constructed, reconstructed, improved, or repaired with the non-ad valorem assessments collected from this MSBU.

3. The County shall perform or cause to be performed minimum maintenance services in the retention pond area, which maintenance shall be limited to mowing, weed control, mosquito control, maintenance and repair of the structural integrity of control devices, and periodic major repairs and improvements to the retention pond. Such maintenance shall not include curb and paved roadway maintenance and repair, signage maintenance and repair, or maintenance of or replacement of landscaping improvements. The County may subcontract with any party for the performance of the maintenance services described herein.

4. Upon completion of construction of the retention pond and the placement of that pond into operation, the Board shall determine the estimated non-ad valorem assessment amount required to pay the expense of maintaining and operating the retention pond in the MSBU. This non-ad valorem assessment is levied for the first time as of **November 1, 2007**, and will be levied each and every year thereafter until discontinued by the Board. The Board may increase or decrease the amount of the assessment by twenty percent (20%) each and every year thereafter to any affected property based on the benefit, which the Board will provide or has provided to the property with the revenue generated, by the assessment. It is the intent of the County that the Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments, as Section 197.3632, Florida Statutes, grants, shall be used for collecting the non-ad valorem assessments. One and one half dollars (\$1.50) for each lot or parcel of land shall be added by the Board to cover the costs of administering the MSBU and the total amount so determined shall be specially assessed against the real property of the freeholders in the MSBU as provided hereafter. Additional amounts will be added to provide for reimbursement of necessary administrative costs incurred by the Property Appraiser and Tax Collector for the collection of non-ad valorem assessments subject to the provision of Section 197.3632, Florida Statutes, and for the establishment and maintenance of a reserve for cash balance for the purpose of paying expenses from October 1 of the ensuing fiscal year until the time when the revenue for that year are expected to be available and a cash reserve for periodic major repairs and improvements to the retention pond. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programming. The County may spend from its general fund, such sums as may be necessary to operate, maintain, and administer the MSBU hereby created and the County will be reimbursed to such extent at such time as such assessments have been collected. The estimated annual cost of operating, maintaining, and administering the MSBU, including the establishment and maintenance of an appropriate reserve for cash balance, is **\$4,932.90**, and the estimated annual assessment to each freeholder is **\$60.90**. Proceeds of collection of such assessments as provided hereinafter are to be put into a special revenue fund of the County to the credit of the MSBU, and are to be used only by the district as provided herein.

5. * Upon completion of construction of the retention pond and the placement of that pond into operation, and for each and every year thereafter, a non-ad valorem special assessment roll setting forth a description of each lot or parcel of land subject to the non-ad valorem special assessments in the MSBU as provided herein, including homesteads, shall be prepared by the Property Appraiser and delivered to the Board, which shall levy a non-ad valorem special assessment upon such lots or parcels as may be necessary to pay the estimated expense of the maintenance of the retention pond and the administration of the MSBU. Such sums shall be assessed against the real property of each

individual freeholder on a pro rata basis, and not on an ad valorem basis, so that each freeholder shall, at all times, pay an equal amount toward such maintenance. After the adoption of the non-ad valorem special assessment roll by the Board, the Property Appraiser shall extend the assessment upon the non-ad valorem special assessment roll, which roll shall be fully completed prior to the time said Board sits as the Board of Tax Adjustment, during which time such assessment may be protested, reviewed, equalized, and adjusted to conform to the provisions of Sections 197.3632 and 197.3635, Florida Statutes. After adjournment as the Board of Tax Adjustment, said Board shall certify said non-ad valorem special assessment roll in the same manner and at the same time as the County Tax Roll is certified and delivered to the Tax Collector, and the non-ad valorem special assessments shall be collected in the same manner and shall have the same priority rights, discounts for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for non-payment, and be subject to the same delinquent interest and penalties, and be treated in all respects the same as County ad valorem taxes. From the proceeds of said non-ad valorem special assessments, the Board shall pay the costs of having a non-ad valorem special assessment roll made and extended. The Tax Collector's office shall receive all fees and costs of sale as provided by law for the collection of ad valorem taxes, advertising, sale of lands, and issuance and sale of certificates. The Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments, Section 197.3632, Florida Statutes, shall be used.

6. The Board intends that non-ad valorem special assessments authorized by this resolution be collected pursuant to the Uniform Assessment Collection Act, Sections 197.3632 and 197.3635, Florida Statutes. The Board authorizes utilization of this Uniform Method of collection for all affected parcels. The non-ad valorem special assessment will be listed on the assessment roll for all affected parcels and will be included in the notice of proposed property taxes and the tax notice for each affected parcel. These non-ad valorem special assessments will be subject to all collection provisions applicable to ad valorem taxes, including discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, issuance of and sale of tax certificates and tax deeds for non-payment, and commissions of the Property Appraiser and the Tax Collector, as provided by Florida Law. If a contract is signed between a subcontractor for maintenance service and Orange County, the effective date of enactment of the contract will coincide with the receipt of the collection of the MSBU special assessment.

7. In the event of division or splitting of any of the tax parcels or lots assessed herein, any such newly subdivided or split parcels shall be included in the MSBU assessments.

8. Each property owner affected by this resolution has been provided first class mail notice of the potential for loss of his or her title when the Uniform Method of collection is used and that all affected property owners have a right to appear at the hearing and to file written objections with the Board. Each property owner affected by this resolution has been provided first class mail notice of the time and place of the public hearing at which this resolution was adopted. However, under Section 119.07, Florida Statutes, certain records may be noted as exempt and confidential. This public record exemption may cause certain property owners not to receive the above first class mail notice, however, a public hearing notice conforming to the provisions of Section 197.3632, Florida Statutes, has been published in a newspaper of general circulation within Orange County four times preceding the public hearing.

9. It is understood and agreed between the County and the Developer that (if applicable) as the Fisher Plantation subdivision expands, the additional Additions, Phases, Sections, Units, and/or etc., as the case may be, may be permitted to join into this Resolution under the same terms and conditions as represented herein, by presenting an appropriate amendatory resolution to the Board for consideration.

10. The Board of County Commissioners shall be the governing board of this Municipal Service Benefit Unit.

ADOPTED THIS 1 DAY OF MAY, 2007

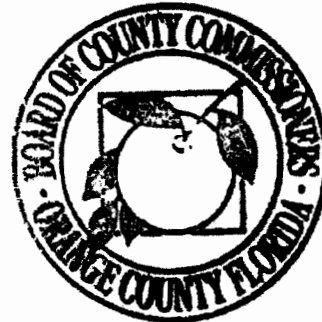
ORANGE COUNTY, FLORIDA

BY: *Art DeLeonardis*
ORANGE COUNTY MAYOR

DATE: 5.2.07

ATTEST: Martha O. Haynie, County Comptroller
as Clerk of the Board of County Commissioners

BY: *[Signature]*
DEPUTY CLERK



BCC Mtg. Date: Aug. 1, 2017

Project: City of Apopka – Fisher Plantation Annexation (ANX-AP-1719)

COUNTY DEED

THIS DEED, made as of the date signed below, by Orange County, a charter county and political subdivision of the state of Florida, whose address is P. O. Box 1393, Orlando, Florida, 32802-1393, GRANTOR, and Fisher Plantation Homeowners Association, Inc., a Florida not for profit corporation, whose address is 2180 West SR 434, Suite 5000, Longwood, Florida, 32799, GRANTEE.

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$1.00 and other valuable considerations, in hand paid by the GRANTEE, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit-claim unto the said GRANTEE forever, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lot, piece, or parcel of land, situate, lying and being in the county of Orange, state of Florida, to-wit:

Tract A, Fisher Plantation, according to the plat thereof, as recorded in Plat Book 67, pages 29 through 31, Public Records of Orange County, Florida.

Property Appraiser's Parcel Identification Number:

31-20-28-2833-00-001

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim whatsoever of the GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the GRANTEE forever.

Project: City of Apopka – Fisher Plantation Annexation (ANX-AP-1719)

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be executed in its name by its Board, acting by the County Mayor, the day and year as written below.

(Official Seal)



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

BY: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor
DATE: 8.1.17

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

BY: *Katie Smith*
Deputy Clerk
Katie Smith
Printed Name

This instrument prepared by:
Paul Sladek, a staff employee
in the course of duty with the
Real Estate Management Division
of Orange County, Florida