



Interoffice Memorandum

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

JUL 16 2013 *NP/les*

AGENDA ITEM

June 20, 2013

TO: Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director *JW*  
Community, Environmental and Development  
Services Department

**CONTACT PERSON: Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development  
Services Department  
(407) 836-1405**

SUBJECT: July 16, 2013 – Consent Item  
Establish the Lake Anderson Advisory Board  
and Terminate the existing Agreement between Lake  
Anderson, Inc., and Orange County

On March 23, 2004, the Board of County Commissioners (Board) adopted a Resolution establishing the Lake Anderson Municipal Service Benefit Unit (MSBU) for operation and maintenance of an aeration system, general lake cleaning maintenance and aquatic plant control in Lake Anderson.

On November 30, 2004, the Board approved an Agreement between Lake Anderson, Inc. (Association) and Orange County that authorized the Association to perform operation and maintenance of an aeration system, general lake cleaning maintenance and aquatic plant control activities in Lake Anderson. The Board now desires to amend the Resolution to establish an advisory board and to state composition of the advisory board. The duties of the Lake Anderson Advisory Board will be to advise the Board as to the administration and operation of the Lake Anderson MSBU.

Furthermore, the Board also desires to terminate the existing agreement between the Association and Orange County by giving 30 days written notice to the Association.

Page Two

July 16, 2013 – Consent Item

Establish the Lake Anderson Advisory Board and

Terminate the existing Agreement between Lake Anderson, Inc., and  
Orange County

**ACTION REQUESTED: Approval of Resolution of the Orange County Board of County Commissioners regarding Amending Resolution that established a Municipal Service Benefit Unit for the Operation and Maintenance of an Aeration System, General Lake Cleaning Maintenance, and Aquatic Plant Control for Lake Anderson to Establish the Lake Anderson Advisory Board; approval to terminate the Agreement Lake Anderson; and authorization to issue the Notice of Termination. District 3**

JVW/LC: mg

Attachments

JUL 16 2013 NPLBS

# RESOLUTION

*of the*

## ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

*regarding*

### AMENDING RESOLUTION THAT ESTABLISHED A MUNICIPAL SERVICE BENEFIT UNIT FOR THE OPERATION AND MAINTENANCE OF AN AERATION SYSTEM, GENERAL LAKE CLEANING MAINTENANCE, AND AQUATIC PLANT CONTROL FOR LAKE ANDERSON TO ESTABLISH THE LAKE ANDERSON ADVISORY BOARD

Resolution No. 2013 - M-21

WHEREAS, on March 23, 2004, the Board of County Commissioners of Orange County, Florida (hereafter the Board), adopted a Resolution, recorded at Official Records Book 7370, pages 3694 through 3697, Public Records of Orange County, Florida, establishing and creating the Lake Anderson Municipal Service Benefit Unit (hereinafter referred to as the MSBU) for operation and maintenance of an aeration system, general lake cleaning maintenance, and aquatic plant control of Lake Anderson; and

WHEREAS, the Board now desires to amend the above-referenced Resolution to authorize the Lake Anderson Advisory Board and to establish criterion for Lake Anderson Advisory Board membership to allow for members who reside at or own property within the MSBU during their term of service.

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

**Section 1. Amendment to Resolution adopted on March 23, 2004.** The Resolution adopted on March 23, 2004 and recorded at Official Records Book 7370, pages 3694 through 3697, Public Records of Orange County, Florida, is hereby amended by revising Section 10 to read as follows, with underlines indicating new wording and strikethroughs showing deleted wording.

11. A. 10. The Board of County Commissioners shall be the governing board of this MSBU Municipal Service Benefit Unit. The Board may appoint an advisory board to advise the administration and operation of said MSBU.

B. The Advisory Board shall consist of five members. Members of the Advisory Board shall reside within the Lake Anderson MSBU during their service as members of the Advisory Board. Three of the members shall be appointed for a term expiring on December 31, 2013, and two of the members shall be appointed for a term expiring on December 31, 2014. Thereafter, at the expiration of the initial terms, members shall be appointed for two-year terms. All members shall serve until their successors are appointed by the Board. Members shall be appointed by the District Commissioner and confirmed by the Board.

In all other respects the Resolution adopted on March 23, 2004 shall remain unchanged.

**Section 2. Effective Date.** This Resolution shall be effective upon passage by the Orange County Board of County Commissioners.

ADOPTED this \_\_\_\_\_ day of JUL 16 2013, 2013.

ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

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

By: *Kate Hunt*  
Deputy Clerk



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APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

NOV 30 2004 AP/BS

AGREEMENT  
LAKE ANDERSON

REIMBURSABLE OPERATION AND MAINTENANCE OF AN AERATION SYSTEM,  
GENERAL LAKE CLEANING MAINTENANCE, AND AQUATIC PLANT CONTROL

THIS AGREEMENT is entered by the Board of County Commissioners of ORANGE COUNTY, FLORIDA, a political subdivision of the State of Florida (the "County"), and **Lake Anderson, Inc.** (the "Association"), organized and existing under the laws of the State of Florida.

WITNESSETH

WHEREAS, certain real property located in Orange County has been platted as the subdivisions as shown in **Exhibit "A"** and the parcel identification numbers as shown in **Exhibit "B"** of the Public Records of Orange County, Florida, (hereinafter the "Property"); and

WHEREAS, the County finds that it serves a valid County purpose under the laws of the State of Florida, to provide operation and maintenance of an aeration system and general lake cleaning maintenance and aquatic plant control of the area, located on **Lake Anderson** shown in **Exhibit "C"** hereto, and

WHEREAS, the Board of County Commissioners of Orange County (the "Board"), on March 23, 2004 established the Municipal Service Benefit Unit for the operation and maintenance of an aeration system, general lake cleaning maintenance, and aquatic plant control for **Lake Anderson** (the "MSBU") for the purpose of generating revenue to provide for such operation and maintenance of an aeration system, general lake cleaning maintenance, and aquatic plant control; and

WHEREAS, the Association has the ability and has requested to perform lake cleaning and aquatic plant control services for the lake area; and

WHEREAS, the County is willing to contract with the Association to perform said lake cleaning and aquatic plant control services until such time as it becomes apparent to the County that said lake cleaning and aquatic plant control services are not being adequately performed.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE I  
SERVICES TO BE PERFORMED

1. The Association shall perform operation and maintenance of an aeration system, general lake cleaning maintenance and aquatic plant control services in the lake area. These services are to include periodic treatment with aquatic herbicides to control noxious vegetation including algae, routine water analysis, removal of noxious vegetation and or trash from waterways, biological control to include stocking with triploid grass carp.

STATE OF FLORIDA, COUNTY OF ORANGE  
I HEREBY CERTIFY this is a copy of a document  
approved by the BCC on NOV 30 2004  
MARTHA O. HAYNIE, COUNTY COMPTROLLER

Deputy Clerk

Date

Seal



2. The Association understands and agrees that any maintenance outside of the scope of the lake cleaning and aquatic plant control services described in paragraph two (1) of this Article shall not be funded with MSBU revenues.

## **ARTICLE II PAYMENTS AFTER IMPLEMENTATION OF THE MSBU FUNDING MECHANISM**

1. After the County has implemented the MSBU mechanism for collection and disbursement of funds, the Association may seek payment from such MSBU funds collected in accordance with this Article.

2. The Association shall render the lake cleaning and aquatic plant control services described in Article I, and shall submit invoices and copies of checks to the County for such services on a monthly basis. The County shall make payment to the Association within thirty (30) working days after approval of submitted reimbursement requests which shall include invoices of the Association regarding the cost to the Association for materials and services expended or used by the Association in the performance of lake cleaning and aquatic plant control services. Such invoices may include the cost for insurance required of the Association by this maintenance agreement. The County shall retain an amount of the assessment collected as a fee to cover administrative costs, governmental collection charges, and inspection fees. In addition, part of the assessment collected shall be set aside to fund a contingency reserve for the cost of periodic major improvements and / or cleaning to the lake area.

3. The Association shall receive payment pursuant to County fiscal procedures, after the Association has submitted an invoice and copies of checks to the County and the County has approved said invoice.

4. The Association expressly understands that the assessment amount collected by Orange County under the MSBU shall constitute the only source of funding for and the absolute maximum amount to be paid by the County under this Agreement. Orange County shall pay for operation and maintenance of an aeration system and general lake cleaning maintenance and aquatic plant control services rendered during any fiscal year using monies collected within that fiscal year under the MSBU, exclusive of funds contained in the contingency reserve. At any time the services to be provided by the Association hereunder will cost more than the monies collected for the fiscal year, then the Association will provide the maintenance services at their sole expense.

## **ARTICLE III TERM OF AGREEMENT**

1. The initial term of this Agreement shall begin **November 1, 2004**. This Agreement automatically renews on a fiscal year basis or until such time the County or the Association shall terminate this Agreement by written notice of termination delivered 30 days prior to the effective date of such termination or this agreement shall be terminated pursuant to Section III of this Article III.

2. After the County has implemented the MSBU mechanism for collection and disbursement of funds, any one of the parties may terminate this Agreement thirty (30) days after receipt by the other party of written notice of intent to terminate. In the event of termination, the County shall pay for services rendered, prorated to the date of termination, which amount shall not exceed the maximum amount payable under this Agreement. Moreover, said payment shall

be made in the same way services are paid for under this Agreement. If payments are made to the Association before services are rendered, the Association shall remit to the County all excess money paid, prorated to the date of termination.

3. It is further agreed that in the event the MSBU assessment funds to finance this Agreement become unavailable through the MSBU, the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours notice in writing to the other party. In addition, in the event that the MSBU shall cease to exist, the County shall notify the Association in writing that this Agreement shall terminate once such assessment funds shall no longer be available and the approximate amount of remaining available assessment funds. The County shall be the final authority as to the availability of funds and as to how any available funds will be allocated among its various service providers.

4. After receipt of a notice of termination, and except as otherwise agreed upon, the Association shall:

- a. Stop working under the Agreement on the date and to the extent specified, in the notice of termination.
- b. Place no further orders or subcontracts for materials or services under this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated.
- c. Terminate all orders and subcontracts under this Agreement to the extent that they relate to the performance of work, which was terminated.
- d. Prepare all necessary reports and documentation required under the terms of the Agreement to the date of termination.

#### **ARTICLE IV ASSIGNMENT AND SUBCONTRACTS**

1. The parties deem the services to be rendered by the Association to be personal in nature.

2. Neither the Association may assign the ultimate rights or duties to provide maintenance under this Agreement to other parties without written permission of the County. Provided, however, this provision shall not act to prohibit the Association from entering into subcontracts for the performance of any or all of the services called for under this Agreement.

3. The Association shall have the right to enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the County; provided however, that no provision of this clause and no such subcontract shall be deemed in any event or manner to provide for the incurrence of any obligation of the County beyond the amount of funds collected by the County under the MSBU less County administration fees. The parties acknowledge that the Association is an independent contractor and is not an agent of the County.

#### **ARTICLE V INSURANCE AND INDEMNIFICATION**

1. The Association shall defend, indemnify, and 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 services by the Association, their directors, officers,

employees, contractors, subcontractors, or agents under this MSBU during the performance of the lake cleaning and aquatic plant control services which are to be paid for out of the proceeds of this MSBU.

2. The Association shall have Commercial General Liability Coverage including, but not limited to, contractual, products and completed operations, and personal injury. The limits shall not be less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for combined single limit (CSL), personal bodily injury and property damage per occurrence, or its equivalent, and the County shall be named as an additional insured to the policy.

3. If the Association hires employees or owns an automobile, the Association shall have:

- a. Workers' Compensation Coverage for employees with statutory limits for Workers' Compensation in the amount of not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for Employers liability and
- b. Business Auto Liability Coverage for all owned and non-owned vehicles in amounts not less than FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) for combined single limits, personal injury and property damage per occurrence or the equivalent

4. Notwithstanding this indemnification and not by way of waiver of such indemnification, if the Association does not perform the service, the Association shall ensure that each and every subcontractor or agent employed by the Association for performance of services under this Agreement has obtained and shall retain throughout the term of their performance of services under their agreement and / or contract with the Association the following insurance and shall submit proof of such insurance to the County.

- a. Commercial General Liability Coverage including, but not limited to, contractual, products and completed operations, and personal injury. The limits shall not be less than FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) for combined single limit (CSL), personal bodily injury and property damage per occurrence, or its equivalent, and the Association shall be named as an additional insured to the policy
- b. Workers' Compensation Coverage for employees with statutory limits for Workers' Compensation in the amount of not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for Employers liability
- c. Business Auto Liability Coverage for all owned and non-owned vehicles in amounts not less than FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) for combined single limits, personal injury and property damage per occurrence or the equivalent

5. Certificates of Insurance evidencing the required insurance shall be filed with the County. The Association shall file their subcontractors or agents certificate of insurance, in a form acceptable to the County with the County no later than ten (10) days after entry into any agreement for provision of service with a subcontractor or agent. Said Certificates shall provide that the policy may not be cancelled or materially altered until at least thirty (30) days after written notice has been given to the County. The County shall be named as an additional insured on the Association policy for Commercial General Liability Coverage and the Association shall be named as an additional insured on the Commercial General Liability policies covering the contractors, subcontractors, or agents employed by the Association. Failure to file said Certificates, and all renewals thereto, with the County shall be a basis for the County, at its option, to terminate this Agreement immediately without notice. Renewal Certificates shall be filed with the County prior to the expiration of the current Certificate.



6. Only Insurance of the types and amounts indicated above shall be included in the MSBU. All other insurance, including but not limited to the types listed below shall be excluded:

- a. Errors and Omissions
- b. Directors and Officers Liability
- c. Employee Dishonesty
- d. Any additional insurance outside the scope of insurance described in this Article.

## **ARTICLE VI RECORDS**

1. The Association shall keep orderly and complete records of its account and operations and shall open these records to inspection by County personnel at reasonable hours during the entire term of this Agreement, plus three (3) years after the ending date of this Agreement, or if audit findings have not been resolved at the end of these three (3) years, the records shall be retained until resolution of the audit findings. Any person duly authorized by the County shall have access to, and the right to examine any of said records during said period.

2. Upon the implementation of the MSBU funding mechanism by the County, the Association shall maintain financial records related to such funds paid under this Agreement. By March 31 of each year the Association shall submit for consideration a projected budget for the next fiscal year.

## **ARTICLE VII OTHER CONDITIONS**

1. Any alterations, variation, modifications, additions, and waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by the parties and attached to the original Agreement. The parties agree to renegotiate this Agreement if revision of any applicable laws or regulations make changes in this Agreement necessary.

2. The name of the official payee to whom the County shall issue checks, when necessary after the implementation of the MSBU funding mechanism, shall be: **Lake Anderson, Inc..**

3. This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are physically attached. No other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind any of the parties hereto.

4. The Association shall obtain and possess throughout the term of this Agreement all licenses and permits applicable to its operations under federal, state, and local laws and shall comply with all fire, health, and other applicable regulatory codes.

5. Correspondence regarding this agreement for the Association shall be mailed to:

Lake Anderson, Inc.  
P. O. Box 2106  
Orlando, FL 32802-2106

6. Correspondence regarding this agreement for the County shall be mailed to:

Orange County Comptroller  
Special Assessments  
PO Box 38  
Orlando, FL 32802-0038

7. Correspondence regarding the certificate of insurance shall be mailed to:

Board of County Commissioners  
% Orange County Comptroller Special Assessments  
PO Box 38  
Orlando, FL 32802-0038

**ARTICLE X  
EFFECTIVE DATE**

1. This Agreement shall become effective upon the latter of the execution dates indicated on the next page. However, the initial reimbursements for this Agreement shall begin November 1, 2004.


IN WITNESS WHEREOF, the parties have executed this Agreement as of the latter of the dates indicated below.

ORANGE COUNTY, FLORIDA

BY:   
Orange County Chairman

DATE: 11.30.04

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

BY:   
Deputy Clerk



Lake Anderson, Inc.

BY: David M. Harding

AS ITS: President

DATE: 10/08/04

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 8 day of October, 2004

by David Major Harding

as an individual / officer / agent, on behalf of himself/ officer

a corporation/ Lake Anderson, Inc

a partnership. He / she is personally known to me or has produced Valid Florida

[Redacted]

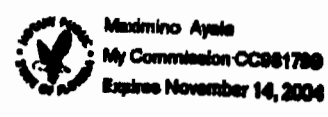
as identification and did / did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this

day of October 8, 2004

Notary Public [Signature]

My Commission Expires: 11-14-04



**Lake Anderson  
Exhibit "A" – Subdivisions**

Subdivision Name	Plat Book / Page	Section Township Range	Lot Numbers
Crittendens Camp Sites	J/136	08-23-30	Lots 1 and 2 Lots 6 through 13
Leprechaun Park	W/33	08-23-30	Lots 1 through 3
Oakwater Pointe	4/94	08-23-30	Lots 1 through 10
Roberta Place	X/68	08-23-30	Lots 3 through 20 Blk A

**Lake Anderson  
Exhibit "B" – Parcel Identification Numbers**

Parcel ID Number	Parcel Legal Description
08-23-30-0000-00-005	E 210 FT OF NW1/4 OF NE1/4 OF SW1/4 SEC 08-23-30 (LESS N 30 FT RD RW)
08-23-30-0000-00-061	BEG 25 FT E & 318.8 FT S O NW COR OF NE1/4 OF SW1/4 RUN S 61 DEG E 378.7 FT S 28 DEG W 110 FT S 61 DEG E 137.75 FT N TO N LINE OF SW1/4 TO POB (LESS N 30 FT RD) & (LESS N 140 FT OF W 150 FT) IN SEC 08-23-30

**EXHIBIT "C"**  
**Lake Anderson**

