



10-23-15P12:51 RCVD

**Interoffice Memorandum**

10-22-15P03:35 RCVD



DATE: October 19, 2015 10-22-15P03:43 RCVD

TO: Katie A. Smith, Deputy Clerk of the Board of County Commissioners  
County Comptroller's Office

THROUGH: Cheryl Gillespie, Supervisor  
Agenda Development Office

FROM: Alberto Vargas, MArch., Manager  
Planning Division



CONTACT PERSON: **Janna Souvorova, AICP, Principal Planner  
Planning Division 407-836-5332  
Janna.Souvorova@ocfl.net**

SUBJECT: Request for Board of County Commissioners  
Public Hearing: ~~November 17~~, 2015, at 2:00 p.m.  
to adopt the following: *December 1*

Interlocal Agreement for Annexation of Enclaves  
between City of Apopka, Florida and Orange  
County, Florida  
404 East Welch Road

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APPLICANT: N/A  
PROPERTY ID NO.: 34-20-28-9550-00-232  
DISTRICT #: District 2  
TYPE OF HEARING: Interlocal Agreement for Annexation of Enclaves

HEARING REQUIRED BY  
FLA. STATUTE #. OR CODE: N/A

ADVERTISING  
REQUIREMENTS: Publish an advertisement in local newspaper of  
general circulation in compliance with Florida  
Statutes No. 125.66(2)(a).

ADVERTISING TIMEFRAMES: At least ten (10) days prior to the public hearing

*December 1, 2015  
@ 2 p.m.*

**APPLICANT/ABUTTERS  
TO BE NOTIFIED:** N/A

**ESTIMATED TIME REQUIRED  
FOR PUBLIC HEARING:** 2 minutes

**HEARING CONTROVERSIAL:** No

**SPANISH CONTACT PERSON:** Para más información en español acerca de estas reuniones públicas o de cambios por ser efectuados, favor de llamar a Lourdes O’Farrill en la División de Planificación al (407) 836-5686.

**MATERIALS BEING SUBMITTED  
AS BACKUP FOR PUBLIC  
HEARING REQUEST:**

Interlocal Agreement for Annexation of Enclaves between City of Apopka, Florida and Orange County, Florida.

**SPECIAL INSTRUCTIONS TO  
CLERK (IF ANY):**

Planning Division will submit three (3) originals already executed by the City of Apopka to the Clerk’s office. Please return all three (3) fully executed originals to the Planning Division upon approval.

- c: Chris Testerman, AICP, Assistant County Administrator
- Joel D. Prinsell, Deputy County Attorney, County Attorney’s Office
- Jon V. Weiss, P.E., Director, CEDS Department
- Susan McCune, AICP, Project Manager, Planning Division
- Janna Souvorova, AICP, Principal Planner, Planning Division

# EXHIBIT "B"

THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:  
City of Apopka  
Community Development Department  
David Moon, Planning Manager  
P. O. Box 1229, Apopka, FL 32704-1229

Tax Parcel Identification Number:  
34-20-28-9550-00-232

For Recording Purposes Only

## INTERLOCAL AGREEMENT FOR ANNEXATION OF ENCLAVES

Between

CITY OF APOPKA, FLORIDA

And

ORANGE COUNTY, FLORIDA

**THIS INTERLOCAL AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (hereinafter referred to as "Agreement") between the **CITY OF APOPKA**, a municipal corporation in the State of Florida whose mailing address is P. O. Box 1229, Apopka, Florida 32704-1229 (hereinafter referred to as "City"), and **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida whose mailing address is 201 South Rosaline Avenue, Orlando, Florida 32801 (hereinafter referred to as "County"), is entered into for the purpose of annexing certain enclaves located within unincorporated Orange County into the corporate limits of the City of Apopka, Florida, pursuant to, and as authorized by, Florida Statutes § 171.046.

### WITNESSTH

**WHEREAS**, Florida Statutes § 171.046, adopted by the Florida Legislature, recognizes that enclaves can create significant problems in planning, growth management, and service delivery; that it is the policy of the State of Florida to eliminate enclaves; and provides a method for the annexation by interlocal agreement of enclaves that are ten (10) acres or less; and

**WHEREAS**, Florida States § 171.031, adopted by the Florida Legislature, defines areas that are "urban in character" as those lands used intensively for residential, urban recreational or conservation parklands, commercial, industrial, institutional, or governmental purposes or an area undergoing development for any of these purposes; and defines "enclaves" as any unincorporated developed or improved area that is enclosed within and bounded on all sides by a single municipality, or any unincorporated developed or improved area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality; and

**WHEREAS**, Florida Statutes § 171.043, adopted by the Florida Legislature, describes the character of the area that may be annexed; and

**WHEREAS**, the City and County agree that both parties shall work together in good faith to enter into interlocal agreements pursuant to Florida Statutes to eliminate such identified enclaves; and

**WHEREAS**, it has been determined by the City that the parcel to be annexed by this Agreement is within the future annexation and planning areas of the City and meets the requirements set out in Florida Statutes § 171.046; and

**WHEREAS**, annexation of the identified enclave into the City will avoid unnecessary confusion and duplication of municipal services, including emergency services.

**NOW THEREFORE**, in consideration of the premises and the mutual promises and agreements set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged and intending to be legally bound hereby, the parties hereto do hereby agree as follows:

**SECTION I.** The Recitals set forth above are true and correct and by this reference are incorporated herein as part of this Agreement.

**SECTION II.** This Agreement is executed in order to adjust and redefine the corporate limits of the City to include the land described in Section III below in order to ensure the sound and efficient delivery of urban services to said lands.

**SECTION III.** The City and the County hereby find that the following land located in unincorporated Orange County is an enclave of 10 acres or less which meets the criteria for annexation into the City under Florida Statutes § 171.046.

See **Attachment "A"** which is attached hereto and by this reference made a part thereof. A map of the above-described land which clearly shows the area proposed to be annexed is attached hereto as **Attachment "B"** and by this reference made a part hereof.

**SECTION IV.** The City hereby finds that the annexation of the land herein described is consistent with State law, the City's Comprehensive Plan and meets all of the requirements for annexation set forth in State law and the City's Comprehensive Plan.

**SECTION V.** Pursuant to Florida Statutes § 171.046(2), the City and the County by this Agreement hereby annex into the corporate limits of the City that land described in Attachment "A" hereto.

**SECTION VI.** The land herein described and future inhabitants of said land shall be liable for all debts and obligations and be subject to all species of taxation, laws, ordinances and regulations of the City and shall be entitled to the same privileges and benefits as other areas of the City.

**SECTION VII.** The land herein described shall have the existing County land use plan and County zoning or subdivision regulations in full force and effect until the City adopts a comprehensive plan amendment and rezoning that includes said land. The City agrees to process for change of land use classification and zoning category of this annexed land in accordance with applicable City ordinances and State laws within twenty-four (24) months following the date of execution of this Agreement by the second party hereto and at no charge to the owners of the land described in Attachment "A" hereto.

**SECTION VIII.** The City hereby acknowledges that, prior to their approval of this Agreement, they have jointly provided written notice to all owners of the real property identified in Attachment "A" whose names and addresses are known by reference to the latest published ad valorem tax records of the Orange County Property Appraiser. The written notice described the purpose of this Agreement and stated the date, time, and place of the meetings of the City of Apopka City Council at which this Agreement was to be considered for approval.

**SECTION IX.** Miscellaneous.

1. This Agreement may not be modified or amended, or any term or provision hereof waived or discharged except in writing, in recordable form, signed by the parties hereto, or their respective successors or assigns. Any such modification or amendment shall not be effective until recorded in the Public Records of Orange County, Florida.

2. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Florida.

3. All of the terms of this Agreement, whether so expressed or not, shall be binding upon the respective successors, assigns and legal representatives of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors, assigns and legal representatives.

4. The headings of this Agreement are for reference only and shall not limit or otherwise affect the meaning thereof.

5. Each party to this Agreement shall bear its own attorneys' fees and costs in connection with this Agreement and/or in connection with any action undertaken in compliance with, or relating to, this Agreement.

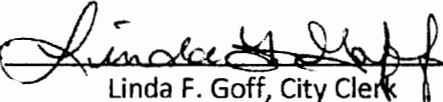
**SECTION X.** If any section, subsection, sentence, clause, phrase, or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereto.

**SECTION XI.** This Agreement shall become effective upon its execution by the second of the two parties hereto and each respective date shall be inserted on the first page of this Agreement. Thereafter the City Clerk is directed to file a certified copy of this Agreement and associated attachments with the Clerk of the Circuit Court in and for Orange County, Florida; the Orange County Property Appraiser; and the Department of State of the State of Florida.

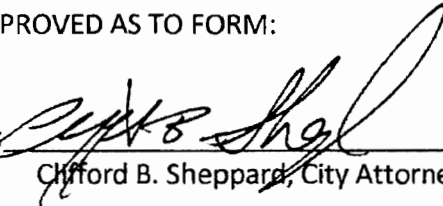
**SECTION XII.** Following its execution by the City and the County, a copy of this Agreement shall be recorded and thereafter provided by certified mail to all owners of the real property identified in Attachment "A" whose names and addresses are known by reference to the latest published ad valorem tax records of the Orange County Property Appraiser.

[Remainder of page left blank intentionally]

ATTEST:

By:   
Linda F. Goff, City Clerk

APPROVED AS TO FORM:

By:   
Clifford B. Sheppard, City Attorney

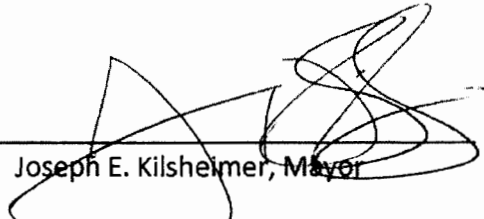
ATTEST:

By: \_\_\_\_\_  
Martha O. Hayne, County Comptroller  
As Clerk of the Board of County Commissioners

Date: \_\_\_\_\_

**"CITY"**

CITY OF APOPKA, a Florida Municipal Corporation

By:   
Joseph E. Kilsheimer, Mayor

APPROVED BY THE CITY OF APOPKA CITY COUNCIL AT  
A MEETING HELD 8-15-15

**"COUNTY"**

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: \_\_\_\_\_  
Teresa Jacobs, Orange County Mayor

Date: \_\_\_\_\_

**ATTACHMENT "A"**

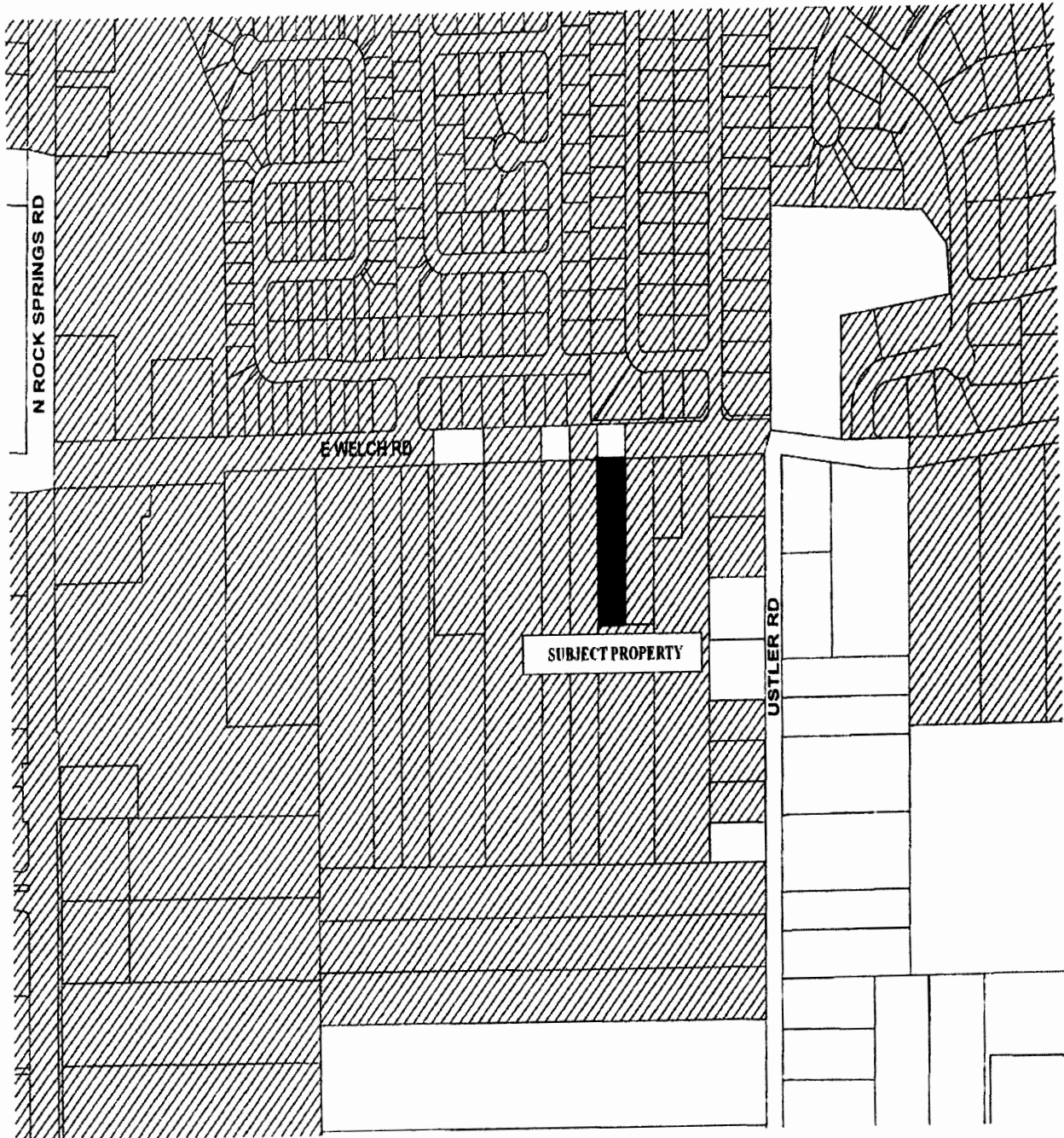
**LEGAL DESCRIPTION OF ANNEXED LAND**

APOPKA RANCHES Z/134 THE N 425 FT OF W 102.5 FT OF LOT 23  
Parcel ID: 34-20-28-9950-00-232  
Containing 1.00 +/- Acres





**ATTACHMENT "B"**  
**DONALD LEE BOUGHAN**  
**404 EAST WELCH ROAD**  
**Total Acres: 1.00 +/-**



**VICINITY MAP**



Published Daily  
ORANGE County, Florida

STATE OF FLORIDA

COUNTY OF ORANGE

Before the undersigned authority personally appeared **Sheri Schmitz / Adys DelValle / Brian Hall / Charles McDowell / Jean M. Gailie**, who on oath says that he/ she is an Advertising Representative of the ORLANDO SENTINEL, a DAILY newspaper published in ORANGE County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter of **Interlocal Agreement for Annexation of Enclaves between City of Apopka, Florida and Orange County, Florida 404 East Welch Road** in ORANGE County Florida, was published in said newspaper in the issues **11/15/15**

Affiant further says that the said ORLANDO SENTINEL is a newspaper published in said ORANGE County, Florida, and that the said newspaper has heretofore been continuously published in said ORANGE County, Florida, each day and has been entered as periodicals matter at the post office in ORANGE County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*Charles I. McDowell*

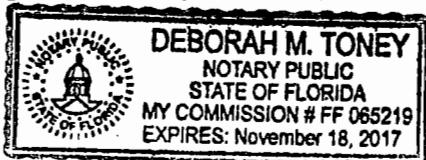
Printed Name of Affiant

*Charles I. McDowell*

Signature of Affiant

Sworn to and subscribed before me on this **16** day of **November, 2015** by above said affiant, who is personally known to me (X) or who has produced identification ( ).

*[Handwritten Signature]*  
Signature of Notary Public (Typed, Printed or Stamped)



Ad No. 3706897

**ORANGE COUNTY  
NOTICE OF PUBLIC HEARING**

The Orange County Board of County Commissioners will conduct a public hearing on **December 1, 2015, at 2 p.m.**, or as soon thereafter as possible, in the County Commission Chambers, First Floor, County Administration Center, 201 South Rosalind Avenue, Orlando, Florida. You are invited to attend and be heard regarding:

Consideration: **Interlocal Agreement for Annexation of Enclaves between City of Apopka, Florida and Orange County, Florida, 404 East Welch Road.**

You may examine the notice and the proposed agreement at the office of the Comptroller Clerk of the Board of County Commissioners, 201 South Rosalind Avenue, Fourth Floor, Orlando, Florida; between 8 a.m. and 5 p.m., Monday through Friday.

**IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE, CONTACT THE ORANGE COUNTY PLANNING DIVISION, 407-836-5332, Email: lanna.souvorova@occf.net**

**PARA MÁS INFORMACIÓN EN ESPAÑOL ACERCA DE ESTAS REUNIONES PÚBLICAS O DE CAMBIOS POR SER EFECTUADOS, FAVOR DE LLAMAR A LOURDES O'FARRILL EN LA DIVISION DE PLANIFICACION AL (407) 836-5686.**

If you wish to appeal any decision made by the Board of County Commissioners at this meeting you will need a record of the proceedings. You should ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you require special accommodations under the Americans with Disabilities Act of 1990, please call 407-836-5631 no later than two business days prior to the hearing for assistance. Si usted requiere ayuda especial bajo la ley de Americanos con Incapacidades de 1990, por favor llame al 407-836-3111.

**Mártha O. Haynie, County Comptroller  
As Clerk of the Board of  
County Commissioners  
Orange County, Florida**

ORG3706897 11/15/15