

BCC Mtg. Date: May 10, 2016

**RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
AMENDING AND RESTATING A
MUNICIPAL SERVICE BENEFIT UNIT
FOR MAINTENANCE OF
RETENTION PONDS
IN**

**Windermere Trails Area
11/2016
with County Dedicated Easements**

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 special assessments in the same manner as ad valorem taxes; and

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

WHEREAS, by the Resolution dated March 24, 2015, the Board established the Windermere Trails Area 11/2015 Municipal Service Benefit Unit (hereinafter known as the "MSBU") for maintenance of retention ponds (hereinafter known as the "Resolution)", said Resolution being recorded in Official Record Book 10898, Pages 2507 through 2511, Public Records of Orange County, Florida; and

WHEREAS, the County has received a request, in writing, from Jeremy Camp, Director, Land Development with Beazer Homes Corporation, and Clint Szubinski, Division President (hereinafter known as the "Developers") of Meritage Homes of Florida, Inc. for the amendment of such Resolution to combine and include the subdivisions which are more fully described as shown in "Exhibit "A" of this resolution and in that portion of the unincorporated area of Orange County; and

WHEREAS, the Board has determined that the amendment of the MSBU, the purpose of which is to combine and include the subdivisions which are more fully described as shown in Exhibit "A" of this resolution and to provide for minimum maintenance of Tracts C, J, and ZZ and as noted in Plat Book 76, Page 76 Windermere Trails Phase 1 in the dedication "**drainage easements ... to the perpetual use of the public.**" and as shown on Plat Book 76, Page 77 in the Surveyor's Notes "**3. Tracts C, J, and ZZ, (Stormwater Tract) shall be owned and maintained by the WINDERMERE TRAILS Homeowners Association (the Association) pursuant to the Declaration. Drainage easements over said Tract are hereby reserved to Orange County, Florida**". Per Plat Book 83, Page 1 Windermere Trails Phase 3A in the dedication "**drainage easements... to the perpetual use of the public.**" and as shown on Plat Book 83, Page 1 Windermere Trails Phase 3 in the Surveyor's Notes "**5. Tract SH-7 (Stormwater Tract) shall be owned and maintained by the Association pursuant to the Declaration. A drainage easement over said Tract is hereby dedicated to**

RECORDING DEPARTMENT: RETURN TO FINANCE & ACCOUNTING SPECIAL ASSESSMENTS

Orange County, Florida.”, - Tract SH-7 (Windermere Trails Phase 3A Plat Book 83 Page 1) formerly known as Tract C (Windermere Trails Phase 1 Plat Book 76 Page 76), Public Records of Orange County, Florida, together with the other information pertaining to the operation of the amended MSBU submitted therewith, to be feasible, necessary to facilitate the services desired, and in the public interest, and that the properties within Windermere Trails subdivisions as shown in Exhibit “A” of this resolution will be benefited, now and in the future, and that the MSBU should be amended; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
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. The **Windermere Trails Area 11/2015** Resolution for maintenance of retention ponds, which is recorded in Official Records Book **10898**, Pages **2507 through 2511**, Public Records of Orange County, Florida, is hereby amended as the **Windermere Trails Area 11/2016** MSBU, subject to final adjustment and approval as provided for in Section 197.3632, Florida Statutes. This MSBU is to combine and include said subdivisions, the boundaries of which appear on the recorded plats of **Windermere Trails Area** subdivisions, Plat Books, Pages, Sections, Townships, Ranges, and Lots as shown in **Exhibit "A"** of this resolution, Public Records of Orange County, Florida. The purpose of such MSBU is to provide for collection and disbursal by the County of such funds to be used by the County 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 ponds located on Tract "J" and Tract "ZZ" of **Windermere Trails Phase 1** and Tract "SH-7" of **Windermere Trails Phase 3A** (previously known as Tract "C") for the **Windermere Trails** subdivisions as shown in Exhibit "A" of this resolution, which ponds are owned by the Association and have easements dedicated to Orange County on the plats thereof and constructed in accordance with standards approved by the Orange County Public Works Division. The Developers and the Association understands that this MSBU is created solely for the purpose of maintaining the retention ponds located on Tract "J" and Tract "ZZ" of Windermere Trails Phase 1 and Tract "SH-7" (previously known as Tract "C") of Windermere Trails Phase 3A of the Windermere Trails subdivisions as shown in Exhibit "A" of this resolution, and that no other ponds or infrastructure improvements located within the Windermere Trails subdivisions as shown in Exhibit "A" of this resolution may be maintained, constructed, reconstructed, improved, or repaired with the non-ad valorem special assessments collected from this MSBU and used by the County.
3. The County shall perform or cause to be performed minimum maintenance services in the retention pond areas, which maintenance may include but not 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 area, and/or equipment/tools and their maintenance and replacement needed for services described herein. 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.
4. Upon completion of construction of the retention ponds and the placement of those ponds into operation, the Board shall determine the estimated non-ad valorem special assessment amount required to pay the expense of maintaining and operating the retention ponds in the MSBU. This non-ad valorem special assessment is levied for the first time as of **November 1, 2016**, and will be levied

each and every year thereafter until discontinued by the Board. The Board may increase or decrease the amount of the non-ad valorem special 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 revenues generated by the non-ad valorem special assessments. It is the intent of the County that the Uniform Method for the levy, collection, and enforcement of non-ad valorem special assessments, as Section 197.3632, Florida Statutes, grants, shall be used for collecting the non-ad valorem special 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 special 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 ponds. 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 non-ad valorem special 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 and periodic major repairs and improvements as needed on a rotation basis established by Public Works, is **\$55,132.00**, and the estimated annual non-ad valorem special assessment to each freeholder is **\$77.00**. Proceeds of collection of such non-ad valorem special 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 ponds and the placement of those ponds 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 ponds 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 non-ad valorem special assessments 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 non-ad valorem special 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 special 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 non-ad valorem special 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 non-ad valorem special assessments.

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 non-ad valorem special 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.

9. It is understood and agreed between the County and the Developer that (if applicable) as the Windermere Trails Area subdivisions as shown in Exhibit "A" of this resolution expand, 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.

11. This resolution which amends and restates the Resolution recorded in Official Records Book 10898, Pages 2507 through 2511, is controlling and supersedes the Resolution recorded in Official Records Book 10898, Pages 2507 through 2511, Public Records of Orange County, Florida.

ADOPTED THIS _____ DAY OF MAY 10 2016, 2016

ORANGE COUNTY, FLORIDA

BY: *Arif Kalebhandai*
ORANGE COUNTY MAYOR



DATE: 5.11.16

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

BY: *Katie Smeeth*
DEPUTY CLERK

Windermere Trails Area
Subdivisions
Exhibit "A"

Subdivisions	Plat Books / Pages	Section Township Range Subcode	Lots / Blocks / Buildings / Tract / Units	Lot Count
Windermere Trails Phase 1	76/76-89	36-23-27-9156	Lots 109 through 115 Lots 136 through 146 Lots 234 through 297 Lots 378 through 525 Lots 526 through 534	0 0 0 0 9
Windermere Trails Phase 1A	77/97-99	36-23-27-9157	Lots 421 through 453	33
Windermere Trails Phase 1B	78/70-71	36-23-27-9158	Lots 391 through 416	26
Windermere Trails Phase 1C	80/15-19	36-23-27-9159	Lots 1 through 154	154
Windermere Trails Phase 5A	80/99-101	36-23-27-9160	Lots 1 through 55	55
Windermere Trails Phase 3A	83/1-5	36-23-27-9162	Lots 309 through 377	69
Windermere Trails Phase 5B	81/32-35	36-23-27-9161	Lots 56 through 106	51
Windermere Trails Parcel 3	83/125-128	36-23-27-9164	Lots 1 through 120	120
			Total	517
Windermere Trails Phase 3B	85/133-142	36-23-27-9170	Lots 1 through 145	145
Windermere Trails Phase 4A	84/70-71	36-23-27-9169	Lots 107 through 160	54
Clubhouse at Windermere Trails	84/38-39	36-23-27-1315	Lot 1	0
				716