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**OSCEOLA COUNTY, FLORIDA**

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**COMMON FACILITIES DISTRICT MASTER ORDINANCE**

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**ADOPTED NOVEMBER 6, 2006**

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**ORDINANCE NO. 06-44**

AN ORDINANCE RELATING TO THE CREATION OF DEPENDENT SPECIAL DISTRICT TO CONSTRUCT, FINANCE, OPERATE AND MAINTAIN SUBDIVISION IMPROVEMENTS; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR A BOARD OF SUPERVISORS AS THE GOVERNING BODY OF THE DISTRICT; PROVIDING THE POWERS AND DUTIES OF THE BOARD OF SUPERVISORS IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION, OPERATION AND MAINTENANCE OF COMMON FACILITIES LOCATED WITHIN THE BOUNDARIES OF THE DISTRICT; GRANTING THE POWER TO IMPOSE SPECIAL ASSESSMENTS, AND SERVICE CHARGES FOR THE ACQUISITION, CONSTRUCTION, OPERATION AND MAINTENANCE OF SUCH COMMON FACILITIES; PROVIDING FOR THE LIEN AND COLLECTION OF SUCH SPECIAL ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:**

**ARTICLE I  
INTRODUCTION**

**SECTION 1.01. DEFINITIONS.** When used in this Master Ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

**"Annual Assessment Resolution"** means the resolution described in Section 4.07 hereof, approving an Assessment Roll for a specific Fiscal Year.

**"Assessment Roll"** means the special assessment roll relating to the Common Facilities Cost approved by a Final Assessment Resolution pursuant to Section 4.06 hereof or an Annual Assessment Resolution pursuant to Section 4.07 hereof.

**"Assessment Unit"** means the unit or criteria used to allocate the Common Facilities Cost among parcels of property located within the District, as set forth in the Initial Assessment Resolution. Unless use of another "Assessment Unit" is required by the Implementing Ordinance, an equal share of the Common Facilities Cost shall be allocated to each platted lot or parcel of record located within the District, on which a single family residence has been or can be constructed or sited.

**"Board of County Commissioners"** means the Board of County Commissioners of Osceola County, Florida.

**"Board of Supervisors"** means the District's Board of Supervisors appointed pursuant to Section 3.01 hereof.

**"Capital Cost"** means the expenses incurred or to be incurred by the District for the acquisition and construction of Common Facilities, including costs associated with the financing thereof.

**"Common Facilities"** means the common facilities owned by each District and identified in its Implementing Ordinance.

**"Common Facilities Cost"** means the Capital Cost and the Maintenance Cost.

**"County"** means Osceola County, a charter county and political subdivision of the State of Florida.

**"District"** means a common facilities district created in the manner described in Section 2.02 hereof.

**"Final Assessment Resolution"** means the resolution described in Section 4.06 hereof, which shall confirm, modify or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of Special Assessments.

**"Fiscal Year"** means any year beginning on October 1 and ending on the next succeeding September 30 or such other period designated by law as the County's fiscal year.

**"Homeowners' Association"** means the homeowners' association created pursuant to Chapter 617, Florida Statutes, having jurisdiction over the property located within the District.

**"Implementing Ordinance"** means the ordinance creating each District.

**"Initial Assessment Resolution"** means the resolution described in Section 4.02 hereof, which shall be the initial proceeding for the imposition of Special Assessments.

**"Maintenance Cost"** means the expenses incurred or to be incurred by the District for the operation and maintenance of Common Facilities.

**"Master Ordinance"** means this Common Facilities District Master Ordinance.

**"President"** means the President of the Board of Supervisors elected pursuant to Section 3.02 hereof.

**"Property Appraiser"** means the Osceola County Property Appraiser.

**"Resolution of Intent"** means the resolution expressing the Board of Supervisor's intent to collect Special Assessments on the ad valorem tax bill required by the Uniform Assessment Collection Act.

**"Secretary/Treasurer"** means the Secretary/Treasurer of the Board of Supervisors elected pursuant to Section 3.02 hereof.

**"Special Assessment"** means a non-ad valorem assessment imposed by the District pursuant to this Master Ordinance to fund the Common Facilities Cost.

**"Supervisor"** means an individual member of the Board of Supervisors.

**"Tax Collector"** means the Osceola County Tax Collector.

**"Tax Roll"** means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

**"Uniform Assessment Collection Act"** means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

**SECTION 1.02. RULES OF CONSTRUCTION.** For the purposes of the administration and enforcement of this Master Ordinance, unless otherwise stated in this Master Ordinance, the following rules of construction shall apply:

(A) In case of any difference of meaning or implication between the text of this Master Ordinance and any caption, the text shall control.

(B) The word "shall" is always mandatory and not discretionary and the word "may" is permissive.

(C) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and words of any gender include the words the other genders.

(D) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:

(1) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

(2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(3) "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(E) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

**SECTION 1.03. LEGISLATIVE FINDINGS.** It is hereby ascertained, determined and declared that:

(A) Article VIII, Section 1 of the Florida Constitution and Sections 125.01 and 125.66, Florida Statutes, grant to the Board of County Commissioners all powers of local self-government to perform County functions and to render services for County purposes in a manner not inconsistent with general or special law, and such power may be exercised by the enactment of County ordinances.

(B) Sections 125.01(5)(a) and 189.0401, Florida Statutes, grant specific authority for the Board of County Commissioners to create dependent special districts for the purpose of providing special service to property located within such districts from funds derived from special assessments and service charges within such districts.

(C) Creation of dependent special districts to acquire, construct, operate and maintain common facilities within the district is consistent with the County's comprehensive plan.

(D) Enactment of this Master Ordinance will establish a uniform system for creating dependent special districts for the purpose of providing special service to property located within such districts.

**ARTICLE II  
CREATION AND DISSOLUTION OF DISTRICTS**

**SECTION 2.01. PURPOSE.** Districts may be created within the unincorporated area of the County for the purpose of acquiring, constructing, operating and maintaining Common Facilities within the District. Districts shall not be authorized to enforce deed restrictions.

**SECTION 2.02. CREATION.** Districts shall be created by enactment of an Implementing Ordinance. Each Implementing Ordinance shall include (A) a description of the property to be included within the District, (B) a list of the Common Facilities, (C) an explanation of why the District is the best alternative for acquiring, constructing, operating and maintaining the Common Facilities, and (D) any provisions applicable to the District that are inconsistent with the terms of this Master Ordinance. It is the intent of this Master Ordinance that the Districts shall be dependent special districts created pursuant to Sections 125.01(5)(a) and 189.0401, Florida Statutes.

**SECTION 2.03. DISSOLUTION.**

(A) Districts may be merged or dissolved by ordinance. A copy of any such ordinance shall be filed with the Special District Information Program within 30 days of enactment. A dissolution may not become effective unless arrangements have been made for the transfer and allocation of revenue and indebtedness of the District. If any bonds or other obligations of the District are outstanding, the ordinance dissolving the District shall set forth the proposed arrangements under which holders of the outstanding obligations will be immediately paid or will continue to be paid, which arrangements must be consistent with the terms of the outstanding obligations.

(B) Any District dissolved by ordinance shall cease its operations at midnight on September 30. The dissolution of the District shall transfer title to all property owned by the District as well as all other District assets, responsibilities and indebtedness to the County; provided however, that the ordinance dissolving the District may direct the transfer of all or a part of the District's property to the Homeowners' Association or any other entity that will succeed the District or conveyed such property to the District. The ordinance dissolving the District shall also provide for completion of the final District audit.

**ARTICLE III  
DISTRICT OPERATIONS**

**SECTION 3.01. APPOINTMENT AND COMPENSATION OF SUPERVISORS.**

(A) The governing body of the District shall consist of three members constituting the Board of Supervisors for the District. Upon enactment of each Implementing Ordinance, the Board of County Commissioners shall appoint the initial members of the Board of Supervisors for the District created by such Implementing Ordinance.

(1) One initial Supervisor shall be designated to serve a term that expires on September 30 of the first full Fiscal Year following his or her appointment.

(2) The second initial Supervisor shall be designated to serve a term that expires on September 30 of the second full Fiscal Year following his or her appointment.

(3) The third initial Supervisor shall be designated to serve a term that expires on September 30 of the third full Fiscal Year following his or her appointment.

Notwithstanding any other provision of this Master Ordinance, one of the three initial Supervisors appointed by the Board of County Commissioners may be a County agent or employee and need not be the owner of residential property within the District or a designated representative of owners of nonresidential property within the District. No County agent or employee appointed under this exception shall be eligible for reappointment or serve as an officer of the District.

(B) Following expiration of the initial terms, the subsequent term for each Supervisor shall be for a period of three years. Supervisors shall hold office for the term of their appointment or until their successor is appointed and qualified as provided herein. Except as provided in subsection (A), there shall be no limit upon the number of successive terms to be served by any Supervisor.

(C) Other than the initial Supervisors, all subsequent appointments shall be made by majority vote of the Board of Supervisors as provided in this subsection. Not less than 60 days prior to each appointment or reappointment, the President of the Board of Supervisors shall provide written notice to the Homeowners' Association of each vacancy and request a list of three nominees for each vacancy. The notice shall include the meeting date of the Board of Supervisors at which the vacancy will be filled. A copy of the notice shall be provided to the County. If a list of nominees is received from the Homeowners' Association prior to the meeting identified in the notice, the Board of Supervisors shall fill the vacancy from the list of nominees. In the event a quorum of a constituted Board of Supervisors cannot exist or the Board of Supervisors fails to fill a vacancy within 90 days of such notice, the Board of County Commissioners may make the appointment in the manner provided in this subsection.

(D) All Supervisors shall be owners of residential property within the District or designated representatives of owners of nonresidential property within the District. If at any time three qualified persons are not willing to serve as Supervisors, the Board of Supervisors shall notify the Board of County Commissioners. In such event, the Board of County Commissioners may appoint any qualified elector residing within the County or dissolve the District.

(E) Each Supervisor shall be subject to removal by the Board of County Commissioners during the period of that Supervisor's unexpired term of office. If a vacancy occurs for any reason during a term of office, the Board of Supervisors shall fill the vacancy for the remainder of the unexpired term, using the procedure set forth in subsection (B).

(F) Supervisors shall serve without compensation, but shall be entitled to be reimbursed from funds of the District for any authorized disbursements they may properly incur on behalf of the District, including travel outside the County in the course of their duties and responsibilities as Supervisors. Any such reimbursement for travel or per diem expenses shall be in amounts authorized pursuant to Chapter 112, Florida Statutes.

### **SECTION 3.02. OFFICERS OF THE BOARD OF SUPERVISORS.**

(A) At its organizational meeting and at the first meeting of each Fiscal Year thereafter, the Board of Supervisors shall elect a President and Secretary/Treasurer from among its members. The President shall preside at all meetings of the Board of Supervisors. The Secretary/Treasurer shall prepare minutes of the meetings and maintain all books and records of the District, which shall be available for public inspection as required by Chapter 119, Florida Statutes. If for any reason, the Board of Supervisors does not elect a President and Secretary/Treasurer at the first meeting of each Fiscal Year, written notice shall be provided to the County and the person serving in the office for which a successor is not elected shall remain in office until a successor has been elected. There shall be no limit upon the number of successive terms to be served by the President and Secretary/Treasurer.

(B) The President and Secretary/Treasurer shall be the only Supervisors authorized to execute checks and documents on behalf of the District and shall, before they enter upon such duties, execute to the Board of County Commissioners for the benefit of the District, a good and sufficient bond approved by the Board of County Commissioners in the sum of \$25,000 with a qualified corporate surety conditioned to faithfully perform the duties of President and Secretary/Treasurer, respectively, and to account for all funds which may come into their hands as President and Secretary/Treasurer, respectively. All premiums for such surety on all bonds shall be paid from funds of the District.

**SECTION 3.03. REGISTERED OFFICE AND AGENT.** At its organizational meeting, the Board of Supervisors shall designate a registered office and a registered agent. Such information shall be filed with the Board of County Commissioners and the State of Florida Department of Community Affairs. The registered agent shall be an agent of the District upon

whom any process, notice, or demand required or permitted by law to be served upon the District may be served. The registered agent shall be an individual resident of the County whose address is identical with the registered office of the District. The registered office may be, but need not be, the same as the place of business of the District. The District may change its registered office or change its registered agent, or both, upon filing such information with the Board of County Commissioners and the State of Florida Department of Community Affairs.

**SECTION 3.04. MEETINGS.**

(A) At its organizational meeting and at the first meeting of each Fiscal Year thereafter, the Board of Supervisors shall establish and publish in a newspaper of general circulation within the County, a regular quarterly meeting date, time, and place. Changes in the regular quarterly meeting schedule must also be published in a newspaper of general circulation.

(B) Special meetings of the Board of Supervisors may be held if notice is published at least 7 days prior to such meeting in a newspaper of general paid circulation within the County unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the Board of Supervisors.

(C) A quorum shall consist of two members of the Board of Supervisors; provided however, that if a quorum is not present, the Supervisors in attendance may act to continue the meeting to any time and date specified in such action. If the President does not attend a meeting at which a quorum is present, the Supervisors present may elect one of their members to preside at the meeting. Except for actions continuing a meeting at which no quorum is present, official action shall be taken only upon the affirmative vote of not less than two Supervisors. Each Supervisor shall be entitled to one vote and no vote by proxy shall be permitted.

(D) All meetings of the Board of Supervisors shall be open to the public and governed by the provisions of Chapter 286, Florida Statutes. Meetings shall be held in a public building when available within the District, in a County facility, or in a building within the County accessible to the public. Where possible, meetings shall be held at a location within the District. Accommodations shall be made in accordance with the Americans with Disabilities Act.

**SECTION 3.05. GENERAL POWERS.** The Board of Supervisors shall have all powers to carry out the purposes of this Master Ordinance, including the following powers:

(A) to acquire, construct operate and maintain the Common Facilities;

(B) to promulgate reasonable rules and regulations for use of the Common Facilities;

(C) to impose Special Assessments for the purpose of funding the acquisition, construction, operation and maintenance of the Common Facilities;

(D) to select and employ a contract manager for the District, who may perform the duties of the Secretary/Treasurer under the direction of the Secretary/Treasurer; provided that any such contract manager shall execute to the Board of County Commissioners for the benefit of the District, a good and sufficient bond approved by the Board of County Commissioners in the sum of \$25,000 with a qualified corporate surety conditioned to faithfully perform the duties of contract manager and to account for all funds which may come into their hands as contract manager;

(E) to apply for and accept grants, loans and subsidies from any governmental entity and to comply with all requirements and conditions imposed in connection therewith;

(F) to contract for the service of accountants, attorneys and other experts or consultants, and such other agents and employees as the Board of Supervisors may require or deem appropriate from time to time

(G) to adopt and use a seal and authorize the use of a facsimile thereof;

(H) to acquire, by purchase, gift, devise or otherwise, and to dispose of real or personal property;

(I) to borrow money, issue notes or bonds, or incur other obligations, but only with prior authorization from the Board of County Commissioners, for the purpose of acquiring and constructing Common Facilities and to secure any such borrowing by a pledge of all or any part of the proceeds of Special Assessments imposed pursuant to Article IV hereof;

(J) to make and execute contracts or other instruments necessary or convenient to the exercise of its powers; and

(K) to do all acts and to exercise all of the powers necessary, convenient, incidental, implied or proper in connection with any of the powers, duties or purposes authorized by this Master Ordinance or the Implementing Ordinance for such District.

### **SECTION 3.06. PURCHASING REQUIREMENTS.**

(A) The following minimum requirements shall govern all purchases by the District:

(1) Category One – Purchases of goods or services with a value less than \$1,000 shall be made from vendors at a reasonable prices, without a requirement for quotations or bids.

(2) Category Two – Purchases of goods or services with a value between \$1,000 and \$14,999, inclusive, shall require three verbal quotations documented in writing.

(4) Category Three – Purchases of goods or services with a value of \$15,000 or more shall require sealed competitive bids. Notice of each invitation to submit competitive bids shall be published in a newspaper of general circulation at least 10 days prior to the bid opening and shall include the date and time of bid opening.

The Board of Supervisors may establish more stringent procurement requirements.

(B) The following purchases shall be exempt from the requirements set forth in subsection (A):

(1) legal, accounting and similar professional services;

(2) professional services within the scope of the practice architecture, professional engineering, landscape architecture, or registered surveying and mapping, which must be procured pursuant to the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes;

(3) sole source items, *i.e.*, goods and services for which it is determined after conducting a diligent, good faith review of availability, that there is only one source; and

(4) emergency purchases, *i.e.*, purchases necessitated by a threat to public health, welfare, or safety under emergency conditions, which includes those situations where the operation of the District would be seriously impaired if immediate action is not taken.

(C) Compliance with the requirements set forth in this Section shall be documented for all purchases and records thereof maintained by the District. Each District shall acquire its own taxpayer identification number and employer identification number.

**SECTION 3.07. COUNTY ADMINISTRATIVE CHARGE.** The Board of County Commissioners may establish administrative charges by resolution, which shall be paid by each District to defray the cost of monitoring District operations, authorizing debt issuance, assisting with Assessment Rolls and other services provided by the County to the Districts.

**SECTION 3.08. ANNUAL BUDGET.**

(A) On or before June 1, the Secretary/Treasurer or designee, shall prepare and present to the Board of Supervisors a tentative balanced budget for the ensuing Fiscal Year in accordance with the uniform chart of accounts prescribed in Uniform Accounting System Manual promulgated by the State of Florida Department of Financial Services Bureau of Accounting. The total amount available from Special Assessments and other sources, including amounts carried over from prior Fiscal Years, must equal the total of appropriations for expenditures and reserves. The budget shall include all estimated receipts (including Special Assessment proceeds), any balances expected to

be brought forward, all estimated expenditures, reserves, and balances to be carried over at the end of the year. The Board of Supervisors shall review the tentative budget for the District.

(B) Prior to July 1 of each year, the Board of Supervisors shall conduct a public hearing to consider adoption of the budget. Prior to the adoption of the budget, the trustees shall hold a public hearing at which time property owners within the district may appear and be heard. Notice of the time, place and subject of the public hearing shall be published once in a newspaper of general circulation within the County at least twenty days prior to the public hearing. The final budget shall be filed with the Clerk of the Board of County Commissioners.

(C) Public hearings to impose Special Assessments or increase the annual rate of Special Assessments shall be noticed and conducted in the manner required by Article IV hereof.

**SECTION 3.09. DISTRICT FUNDS.** The proceeds of the Special Assessments and other funds of the District shall be deposited in the name of the District in a bank or savings and loan association or building and loan association authorized to receive deposits of County funds, which depository shall be designated by resolution of the Board of Supervisors. The depository shall treat the funds in accordance with the legal requirements imposed upon such depositories with respect to public funds. No funds of the District shall be disbursed save by check or draft signed by the President and Secretary/Treasurer.

**SECTION 3.10. ANNUAL AUDIT.** Immediately after the close of each Fiscal Year, the District shall cause its books, records and accounts to be properly audited by an independent certified public accountant, and shall require such accountant to complete its report of such annual audit in accordance with applicable law. Each annual audit shall be completed and delivered prior to January 15 in conformity with generally accepted government auditing standards consistently applied. A copy of each annual audit shall be furnished to Clerk of the Board of County Commissioners.

**SECTION 3.11. REPORTING REQUIREMENTS.** The District shall comply with all reporting requirements set forth in Chapter 189, Florida Statutes, including but not limited to Sections 189.415, 189.417 and 189.418, Florida Statutes, and shall provide all information relating to the District that is required for the County to comply with Chapter 218, Florida Statutes. Copies of all minutes, resolutions and other actions of the Board of Supervisors shall be provided to the County following their approval.

**SECTION 3.12. LIABILITY AND INDEMNIFICATION OF SUPERVISORS.** Any Supervisor who, as a Supervisor, is made party to any action, suit, or proceeding shall be indemnified by the District to the extent allowed by law.

**ARTICLE IV  
SPECIAL ASSESSMENTS**

**SECTION 4.01. SPECIAL ASSESSMENTS.** The Board of Supervisors is hereby authorized to impose Special Assessments against property located within the District to fund the Capital Cost and Maintenance Cost of Common Facilities. The Special Assessment shall be computed in a manner that fairly and reasonably apportions the Capital Cost and/or Maintenance Cost among the parcels of property within the Assessment Area, based upon objectively determinable Assessment Units. If Special Assessments are imposed to fund the Capital Cost of Common Facilities, a special benefit from such Common Facilities shall be provided to all assessed property within five years of the date such Special Assessments are first included on the Tax Roll.

**SECTION 4.02. INITIAL ASSESSMENT RESOLUTION.** The initial proceeding for imposition of Special Assessments shall be the Board of Supervisors's adoption of an Initial Assessment Resolution. The Initial Assessment Resolution shall (A) specify the proposed use of Special Assessment proceeds; (B) estimate the applicable Capital Cost and/or Maintenance Cost; (C) describe with particularity the proposed method of apportioning the applicable Capital Cost and/or Maintenance Cost among the parcels of property to be assessed, such that the owner of any parcel of property can objectively determine the number of Assessment Units and the amount of the Special Assessment; (D) describe the provisions, if any, for acceleration and prepayment of the Special Assessment; and (E) include specific legislative findings that recognize the fairness provided by the apportionment methodology.

**SECTION 4.03. ASSESSMENT ROLL.**

(A) The Secretary/Treasurer shall prepare a preliminary Assessment Roll that contains the following information:

- (1) a summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Special Assessment;
- (2) the name(s) of the owner(s) of record of each parcel, as shown on the Tax Roll;
- (3) the number of Assessment Units attributable to each parcel;
- (4) the estimated maximum annual Special Assessment to become due in any Fiscal Year for each Assessment Unit; and
- (5) the estimated maximum annual Special Assessment to become due in any Fiscal Year for each parcel.

(B) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be on file with the Secretary/Treasurer and be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Special Assessment for each parcel of property can be determined by use of a computer available to the public.

**SECTION 4.04. NOTICE BY PUBLICATION.** After filing the Assessment Roll, as required by Section 4.03(B) hereof, the Secretary/Treasurer shall publish once in a newspaper of general circulation within the County a notice stating that a public hearing of the Board of Supervisors will be held at a designated place on a certain day and hour, not earlier than 20 calendar days from such publication, at which hearing the Board of Supervisors will receive written comments and hear testimony from all interested persons regarding adoption of the Final Assessment Resolution. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

**SECTION 4.05. NOTICE BY MAIL.** In addition to the published notice required by Section 4.04, the Secretary/Treasurer shall provide notice of the proposed Special Assessment by first class mail to the owner(s) of each parcel of property subject to the Special Assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the Tax Roll within ninety days prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The Secretary/Treasurer may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for the payment of a Special Assessment imposed by the Board of Supervisors pursuant to this Master Ordinance.

**SECTION 4.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION.** At the time named in such notice, or such time to which an adjournment or continuance may be taken, the Board of Supervisors shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the Board of Supervisors, adopt the Final Assessment Resolution which shall (A) confirm, modify or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Board of Supervisors; (B) establish the maximum amount of the Special Assessment for each Assessment Unit; and (C) approve and adopt the Assessment Roll, with such amendments as it deems just and right.

**SECTION 4.07. ANNUAL ASSESSMENT RESOLUTION.** During its budget adoption process and prior to September 15 of each year, the Board of Supervisors shall adopt an Annual Assessment Resolution for each Fiscal Year in which Special Assessments will be imposed to establish the amount of the Special Assessments and to adopt and approve the Assessment Roll for such Fiscal Year. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year. The Assessment Roll shall be prepared in accordance with the Initial Assessment Resolution, as confirmed or amended by the Final Assessment Resolution. If the

proposed Special Assessment for any parcel of property exceeds the maximum amount established in the notice provided pursuant Section 4.05 hereof or if a Special Assessment is imposed against property not previously subject thereto, the Board of Supervisors shall provide notice to the owner of such property in accordance with Sections 4.04 and 4.05 hereof and conduct a public hearing prior to adoption of the Annual Assessment Resolution. Failure to adopt an Annual Assessment Resolution during the budget adoption process for a Fiscal Year may be cured at any time. Unless and until such failure is cured or a new Assessment Roll is approved, the Assessment Roll approved and adopted by the most recent previously adopted Annual Assessment Resolution shall be deemed to have been timely re-approved and re-adopted for each subsequent Fiscal Year.

**SECTION 4.08. EFFECT OF FINAL ASSESSMENT RESOLUTIONS.** The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the adoption of the Assessment Roll and the levy and lien of the Special Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Board of Supervisors adoption of the Final Assessment Resolution. The Special Assessments for each Fiscal Year shall be established in the manner set forth in Section 4.07 hereof. The Assessment Roll, as approved by the Annual Assessment Resolution, shall be certified to the Tax Collector prior to September 15 or such earlier date as may be required by the Tax Collector. If the County assumes responsibility for preparing and certifying the Assessment Roll to the Tax Collector, the information shall be provided to the County not later than July 15.

**SECTION 4.09. LIEN OF SPECIAL ASSESSMENTS.** Each annual Special Assessment to be collected under the Uniform Assessment Collection Act shall constitute a lien against the assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the Board of Supervisors of the Annual Assessment Roll as provided in Section 4.07 hereof and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

**SECTION 4.10. REVISIONS TO SPECIAL ASSESSMENTS.** If any Special Assessment made under the provisions of this Master Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Board of Supervisors is satisfied that any such Special Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board of Supervisors has failed to include any property on the Assessment Roll which property should have been so included, the Board of Supervisors may take all necessary steps to impose a new Assessment against any property benefitted by the Common Facilities, following as nearly as may be practicable, the provisions of this Master Ordinance and in case such second Special Assessment is annulled, the Board of Supervisors may obtain and impose other Special Assessments until a valid Special Assessment is imposed.

**SECTION 4.11. PROCEDURAL IRREGULARITIES.** Any irregularity in the proceedings in connection with the levy of any Special Assessment under the provisions of this Master Ordinance shall not affect the validity of the same after the approval thereof, and any Special Assessment as finally approved shall be competent and sufficient evidence that such Special Assessment was duly levied, that the Special Assessment was duly made and adopted, and that all other proceedings adequate to such Special Assessment were duly had, taken and performed as required by this Master Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section 4.11, any party objecting to a Special Assessment imposed pursuant to this Master Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

**SECTION 4.12. CORRECTION OF ERRORS AND OMISSIONS.**

(A) No act of error or omission on the part of the Board of Supervisors, Secretary/Treasurer, Property Appraiser, Tax Collector, or their respective deputies or employees, shall operate to release or discharge any obligation for payment of any Special Assessment imposed by the Board of Supervisors under the provisions of this Master Ordinance.

(B) The number of Assessment Units attributed to a parcel of property may be corrected at any time by the Secretary/Treasurer. Any such correction which reduces a Special Assessment shall be considered valid from the date on which the Special Assessment was imposed and shall in no way affect the enforcement of the Special Assessment imposed under the provisions of this Master Ordinance. Any such correction which increases a Special Assessment or imposes an assessment on omitted property shall first require notice to the affected owner in the manner described in Section 4.05 hereof, providing the date, time and place that the Board of Supervisors will consider confirming the correction and offering the owner an opportunity to be heard.

(C) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

**SECTION 4.13. METHOD OF COLLECTION.** Special Assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the Board of Supervisors shall comply with all applicable provisions thereof. The Resolution of Intent required by the Uniform Assessment Collection Act may be adopted either prior to or following the Initial Assessment Resolution; provided however, that the Resolution of Intent must be adopted prior to January 1 (or March 1 with consent of the Property Appraiser and Tax Collector) of the year in which the Special Assessments are first collected on the ad valorem tax bill. Any hearing or notice required by this Master Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

**ARTICLE V  
MISCELLANEOUS PROVISIONS**

**SECTION 5.01. APPLICABILITY OF MASTER ORDINANCE.** This Master Ordinance shall apply to all dependent special districts created by the County to provide for the acquisition, construction, operation and maintenance of Common Facilities unless the Implementing Ordinance specifies that all or any specific provisions hereof shall not apply.

**SECTION 5.02. SEVERABILITY.** If any portion of this Master Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this Master Ordinance. If this Master Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

**SECTION 5.03. ALTERNATIVE METHOD.** This Master Ordinance shall be deemed to provide additional and alternative authority for the actions to be taken hereunder and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Master Ordinance, being necessary for the welfare of the inhabitants of the County, shall be construed liberally to effect the purposes hereof.

**SECTION 5.04. EFFECTIVE DATE.** A certified copy of this Master Ordinance shall be filed in the Department of State by the Clerk of the Board of County Commissioners within ten days after enactment. This Master Ordinance shall take effect immediately upon filing with the Florida Department of State.

**DULY ENACTED** in regular session this 6<sup>th</sup> day of November, 2006.

**BOARD OF COUNTY COMMISSIONERS  
OF OSCEOLA COUNTY, FLORIDA**

By:   
Chairman

ATTEST:

Debra A Davis  
Clerk to the Board

(SEAL)

**NOTICE THAT THIS ORDINANCE HAS BEEN  
FILED WITH THE FLORIDA STATE BUREAU  
OF ADMINISTRATIVE CODE.**

ON 11/14/06, \_\_\_\_\_

BY   
DEPUTY CLERK OF THE BOARD

