

RESOLUTION NO. 07-037R

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA, RELATING TO THE IMPOSITION OF MAINTENANCE ASSESSMENTS IN THE WEST 192 REDEVELOPMENT AREA MUNICIPAL SERVICE BENEFIT UNIT; AMENDING RESOLUTIONS ADOPTED BY THE BOARD ON OCTOBER 23, 1995 AND MAY 18, 1998, AND RESOLUTION NOS. 98/99-075, 98/99-090 AND 03-050R TO IMPOSE MAINTENANCE ASSESSMENTS AT A UNIFORM RATE THROUGHOUT THE MUNICIPAL SERVICE BENEFIT UNIT; RATIFYING PUBLISHED AND MAILED NOTICES; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the "Board") of Osceola County, Florida enacted Ordinance No. 95-08 (the "Ordinance") on July 31, 1995, and created the West 192 Redevelopment Area Municipal Service Benefit Unit (the "MSBU") for the purpose of imposing both capital assessments to finance the acquisition and construction of improvements to enhance the commercial viability of property located therein (the "Project") and maintenance assessments to fund the cost of maintaining the Project; and

WHEREAS, the Board adopted a resolution on October 23, 1995, which authorized the imposition of "Phase I Maintenance Assessments" at a uniform rate specific to the "Phase I Benefit Area" (as such terms are defined in the resolution); and

WHEREAS, Phase I Maintenance Assessments at a uniform rate specific to the Phase I Benefit Area have been imposed for each year thereafter; and

WHEREAS, the Board adopted a resolution on May 18, 1998, which authorized the imposition of "Phase IIA Maintenance Assessments" at a uniform rate specific to the "Phase IIA Benefit Area" (as such terms are defined in the resolution); and

WHEREAS, Phase IIA Maintenance Assessments at a uniform rate specific to the Phase IIA Benefit Area have been imposed for each year thereafter; and

WHEREAS, the Board adopted Resolution No. 98/99-075 on April 19, 1999, which authorized the imposition of "Phase IIB Maintenance Assessments" at a uniform rate specific to the "Phase IIB Benefit Area" (as such terms are defined in Resolution No. 98/99-075); and

WHEREAS, Phase IIB Maintenance Assessments at a uniform rate specific to the Phase IIB Benefit Area have been imposed for each year thereafter; and

WHEREAS, the Board adopted Resolution No. 98/99-090 on May 24, 1999, amending the resolutions adopted on October 23, 1995 and May 18, 1998 to conform with Resolution No. 98/99-075; and

WHEREAS, the Board adopted Resolution No. 03-050R on May 5, 2003, which authorized the imposition of "Phase IIC Maintenance Assessments" at a uniform rate specific to the "Phase IIC Benefit Area" (as such terms are defined in Resolution No. 03-050R); and

WHEREAS, Phase IIC Maintenance Assessments at a uniform rate specific to the Phase IIC Benefit Area have been imposed for each year thereafter; and

WHEREAS, maintenance services for Phase I, Phase IIA, Phase IIB and Phase IIC have been performed by VMS Maintenance Systems, Inc. ("VMS") pursuant to an agreement entered into on April 15, 2002 (the "2002 Maintenance Agreement"), under which specific maintenance rates were established for each phase as it was completed; and

WHEREAS, Phases I, IIA, IIB and IIC have been completed and are being maintained at a uniform level by VMS pursuant to the 2002 Maintenance Agreement; and

WHEREAS, the 2002 Maintenance Agreement will expire on September 30, 2007 and the County has entered into a new maintenance agreement with VMS (the "2007 Maintenance Agreement") that includes significant new maintenance services to be provided throughout the MSBU and does not specify a distinct maintenance cost for each phase; and

WHEREAS, since maintenance services will now be provided uniformly throughout the MSBU, it is more equitable to impose Maintenance Assessments (as defined in Ordinance No. 95-8) at a uniform rate throughout the MSBU;

WHEREAS, the Board enacted Ordinance No. 07-21 on date hereof to permit the imposition of Maintenance Assessments at a uniform rate throughout the MSBU; and

WHEREAS, the Board now desires to amend the resolutions adopted by the Board on October 23, 1995 and May 18, 1998, and Resolution Nos. 98/99-075, 98/99-090 and 03-050R (collectively, the "Maintenance Resolutions") to impose Maintenance Assessments at a uniform rate throughout the MSBU;

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

SECTION 1. AMENDMENT TO PHASE I RESOLUTIONS. The resolution adopted by the Board on October 23, 1995 relating to the imposition of assessments for the Phase I Benefit Area, as amended by Resolution No. 89/90-075, is hereby amended by deleting Article V thereof.

SECTION 2. AMENDMENT TO PHASE IIA RESOLUTIONS. The resolution adopted by the Board on May 18, 1998, relating to the imposition of assessments for the Phase IIA Benefit Area, as amended by Resolution No. 89/90-075, is hereby amended by deleting Article V thereof.

SECTION 3. AMENDMENT TO RESOLUTION NO. 98/99-075. Resolution No. 98/99-075, adopted by the Board on May 18, 1998, is hereby amended by deleting Article V thereof.

SECTION 4. AMENDMENT TO RESOLUTION NO. 03-050R. Resolution No. 03-050R, adopted by the Board on May 5, 2003, is hereby amended by deleting Article V thereof.

SECTION 5. DEFINITIONS.

(A) Capitalized terms not otherwise defined herein shall have the meanings defined in the Maintenance Resolutions.

(B) The following additional definitions are hereby added to each of the Maintenance Resolutions:

"Administrative Cost" means all expenses that are properly attributable to administration of the MSBU under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the County for any moneys advanced for MSBU Administrative Cost, and interest on any interfund loan for such purposes. The term "MSBU Administrative Cost" may include the cost of marketing and other services to enhance the commercial viability of Nonresidential Property located within the MSBU.

"Collection Cost" means, for any Fiscal Year, the estimated cost to be incurred by the County in connection with collection of the Maintenance Assessments, Phase I Capital Assessments, Phase IIA Capital Assessments, Phase IIB Capital Assessments and Phase IIC Capital Assessments, including without limitation: (A) preparation and maintenance of the Assessment Roll, (B) amounts payable to or retained by the Tax Collector, (C) appropriate interdepartmental charges, and (D) all other expenses that are properly attributable to collection of the Maintenance Assessments, Phase I Capital Assessments, Phase IIA Capital Assessments, Phase IIB Capital Assessments and Phase IIC Capital Assessments

under generally accepted accounting principles, including reimbursement to the County for any moneys heretofore or hereafter advanced for the Collection Cost and interest on any interfund loan for such purpose.

"Maintenance Assessment" means an annual special assessment to be imposed by the County for each Fiscal Year against Nonresidential Property within the MSBU to fund the Maintenance Cost, Administrative Cost, Collection Cost and related expenses.

"Maintenance Assessment Roll" means the non-ad valorem assessment roll for the Maintenance Assessment.

"Maintenance Cost" means, for any Fiscal Year, the estimated cost of maintaining the Project that will not be paid by FDOT, including without limitation: (A) the cost of all labor, materials, machinery and equipment; (B) reasonable budgetary reserves; (C) appropriate administrative charges; and (D) all other expenses that are properly attributable to such maintenance under generally accepted accounting principles, including reimbursement to the County for any moneys heretofore or hereafter advanced for Maintenance Cost and interest on any interfund loan for such purposes.

"Pedestrian Maintenance Assessment Rate" means the assessment rate computed pursuant to the Maintenance Resolutions, as amended hereby.

"Pedestrian Maintenance Cost" means the Maintenance Cost allocable to Pedestrian Improvements.

"Pedestrian Share" means the factor computed by dividing the Pedestrian Maintenance Cost by the Maintenance Cost.

"Vehicular Maintenance Cost" means the Maintenance Cost allocable to Vehicular Improvements.

"Vehicular Maintenance Assessment Rate" means the assessment rate computed pursuant to the Maintenance Resolutions, as amended hereby.

"Vehicular Share" means the factor computed by dividing the Vehicular Maintenance Cost by the Maintenance Cost.

SECTION 6. AMENDMENT TO MAINTENANCE RESOLUTIONS. The following new Article V is hereby added to each of the Maintenance Resolutions.

ARTICLE V

MAINTENANCE ASSESSMENTS

SECTION 5.01. ESTIMATED MAINTENANCE COST. The Collection Cost, the Maintenance Cost and related expenses shall be funded through the imposition of Maintenance Assessments against Nonresidential Property located in the MSBU in the manner set forth in this Resolution.

SECTION 5.02. IMPOSITION OF MAINTENANCE ASSESSMENTS. The County shall impose a Maintenance Assessment against the Nonresidential Property located in the MSBU, the amount of which shall be computed in accordance with this Resolution. When imposed, the Maintenance Assessment shall constitute a lien upon the Nonresidential Property located in the MSBU, pursuant to the Ordinance. Payment in full of the Maintenance Assessment imposed against any Tax Parcel shall operate as a release of the Maintenance Assessment lien upon such Tax Parcel.

SECTION 5.03. MAINTENANCE ASSESSMENT RATES.

(A) The Pedestrian Maintenance Assessment Rate for each Fiscal Year shall be computed by dividing the Pedestrian Share of the Maintenance Cost by the total Factored Pedestrian Value within the MSBU. Computation of the Pedestrian Maintenance Assessment Rate for each Fiscal Year shall be based upon the Taxable Values shown on the Tax Roll certified to the County by the Property Appraiser pursuant to section 200.065(1), Florida Statutes.

(B) The Vehicular Maintenance Assessment Rate for each Fiscal Year shall be computed by dividing the Vehicular Share of the Maintenance Cost by the total Factored Vehicular Value within the MSBU. Computation of the Vehicular Maintenance Assessment Rate for each Fiscal Year shall be based upon the Taxable Values shown on the Tax Roll certified to the County by the Property Appraiser pursuant to section 200.065(1), Florida Statutes.

SECTION 5.04. COMPUTATION OF MAINTENANCE ASSESSMENTS. Maintenance Assessments will be imposed for each Fiscal Year. The Maintenance Assessments shall be collected on the ad valorem tax bill in the manner authorized by the Uniform Assessment Collection Act. For each Fiscal Year, the Maintenance Assessment for every Tax Parcel of Nonresidential Property located in the MSBU shall be (A) the sum of (1) the amount computed by multiplying the Pedestrian Maintenance Assessment Rate by the Factored Pedestrian Value of such Tax Parcel, and (2) the amount computed by multiplying the Vehicular Maintenance Assessment Rate by the Factored Vehicular Value of such Tax Parcel, divided by (B) the factor of 0.95, reflecting the percentage of

reasonably anticipated receipts the County is permitted to appropriate pursuant to Section 129.01(2)(b), Florida Statutes.

SECTION 5.05. MAINTENANCE ASSESSMENT ROLL. The Public Works Director is hereby directed to complete a final estimate of the Maintenance Cost and to prepare the preliminary Maintenance Assessment Roll in the manner provided in the Ordinance. The Public Works Director shall apportion the final estimated Maintenance Cost among the parcels of real property within the MSBU as reflected on the Tax Roll in conformity with this Resolution. The estimate of the Maintenance Cost and the Maintenance Assessment Roll shall be maintained on file in the Public Works Director's West 192 Coordinator's office and shall be open to public inspection. The foregoing shall not be construed to require that the Maintenance Assessment Roll be in printed form if the amount of the Maintenance Assessment for each Tax Parcel can be determined by use of a computer terminal.

SECTION 7. CONFLICTS AND SEVERABILITY. All sections or parts of section of all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict. If any section, subsection, sentence, clause or provisions of this Resolution is held unconstitutional, inoperative, or void by a court of competent jurisdiction, such holding shall not affect the remainder of the Resolution.

SECTION 7. RATIFICATION OF NOTICES. Notices published pursuant to Section 4.04 of the Ordinance and provided by first class mail to the owner of each parcel of real

property subject to the Maintenance Assessments pursuant to Section 4.05 of the Ordinance are hereby ratified and confirmed.

SECTION 8. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED this 27th day of August, 2007.

OSCEOLA COUNTY, FLORIDA

- By: _____

Chairman/Vice Chairman
Board of County Commissioners

ATTEST:

Debra A. Davis
Clerk/Deputy Clerk to the Board
(SEAL)

