

ORDINANCE NO. 02-26

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, CREATING THE INDIGO EAST COMMUNITY DEVELOPMENT DISTRICT, PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING FOR THE ESTABLISHMENT AND NAME OF THE DISTRICT, TO BE KNOWN AS THE INDIGO EAST COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR THE LEGAL DESCRIPTION; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; PROVIDING FOR POWERS; PROVIDING FOR APPLICABILITY OF CHAPTER 190, FLORIDA STATUTES, AND ALL OTHER APPLICABLE STATUTES, ORDINANCES, RULES AND REGULATIONS; PROVIDING FOR NO MARION COUNTY OBLIGATIONS; PROVIDING FOR NO LIMITATION ON MARION COUNTY POWERS; PROVIDING FOR DISCLOSURE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, Chapter 190, Florida Statutes, the "Uniform Community Development District Act of 1980" (the "Act"), and specifically section 190.005, "Establishment of district" at subsection 190.005(2)(a) and Marion County Ordinance 97-10 set forth the exclusive and uniform method for the establishment of an independent community development district of less than one thousand (1,000) acres in Marion county, Florida; and

WHEREAS, Section 190.005(2), Florida Statutes, requires a petition for the establishment of a community development district to be filed with the County Commission, which petition is required to include certain information as required in Section 190.005(1)(a) and said petition is required to be considered at a public hearing conducted by the County Commission in accordance with the requirements and procedures of Section 190.005(1)(d); and

WHEREAS, a petition for the establishment of the Indigo East Community Development District, which included a statement of estimated regulatory costs and the other information required in Section 190.005(1)(a), hereinafter referred to as the "Petition", was submitted by On Top of The World, Inc., a Florida corporation, to the Board of County Commissioners of Marion County and considered at a public hearing on November 5, 2002, and

WHEREAS, on November 5, 2002, the Board of County Commissioners conducted a public hearing to receive comment and to consider the factors set forth in Section 190.005(1)(e), Florida Statutes, to make a determination to grant or deny the Petition for the establishment of the Community Development District; and

WHEREAS, Section 190.005(2), Florida Statutes, authorizes the Board of County Commissioners to exercise its legislative discretion and enact an ordinance granting the petition for the establishment of a community development district to be known as Indigo East Community Development District, now therefore

BE IT ORDAINED by the Board of County Commissioners of Marion County, Florida:

SECTION 1. ESTABLISHMENT AND NAME OF DISTRICT. The Petition for the establishment of the "Indigo East Community Development District" is hereby granted and

CERTIFIED A TRUE COPY  
DAVID R. ELSBERG  
BY: *David R. Elsberr*

there is hereby established pursuant to the provisions of Section 190.005(2), Florida Statutes, a community development district which shall be known as the "Indigo East Community Development District" (the "District").

**SECTION 2. LEGAL DESCRIPTION.** The external boundaries of the District are legally described in *Exhibit A*, attached hereto and incorporated herein.

**SECTION 3. FINDING OF FACT.** Pursuant to Section 190.005(2), Florida Statutes, the Board of County commissioners hereby adopts the following findings of fact at the public hearing on the Petition to establish the District:

- A. All statements contained within the Petition are true and correct and all statements set-forth in the preamble to this ordinance are true and correct.
- B. The creation of the District is not inconsistent with applicable elements or portions of the State of Florida Comprehensive Plan set out in Chapter 187, Florida Statutes and the Marion County Comprehensive Plan, adopted in Ordinance No. 92-3, as amended.
- C. The area of land within the District is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developable as one functional interrelated community.
- D. The District is the best alternative available for delivering community development services and facilities to the area that will be served by the District.
- E. The community development services and facilities of the District will not be incompatible with the capability and uses of existing local and regional community development services and facilities.
- F. The area to be served by the District is amenable to separate special district government.

**SECTION 4. BOARD OF SUPERVISORS.**

- A. The initial five (5) members of the Board of Supervisors of the District shall be the following individuals:
  - (1) Kenneth D. Colen
  - (2) Philip Faranda
  - (3) Barbara Thomas
  - (4) Morris Dittman
  - (5) Solon O'Neal

- B. The Board of Supervisors of the District shall exercise all powers granted to the District pursuant to Chapter 190, Florida Statutes, consistent with all applicable governmental laws, rules and regulations.

**SECTION 5. POWERS.**

- A. The District shall have, and the Board of Supervisors of the District may exercise, all the general powers of a community development district granted by Chapter 190, Florida Statutes, as amended from time to time consistent with all applicable governmental laws, rules and regulations.
- B. The District shall have, and the Board of Supervisors of the District is hereby specifically authorized to exercise, all the special powers provided in Section 190.012, Florida Statutes, as amended from time to time consistent with all applicable governmental laws, rules and regulations.
- C. This Ordinance also represents an agreement that the District is authorized and the Board of Supervisors of the District may exercise such authority to cause above ground utility lines to be relocated below ground within the boundaries and along adjacent roads of the District, such work being consistent with the Marion County Comprehensive Plan.
- D. The creation of an independent community development district is not a development order within the meaning of Chapter 380, Florida Statutes. All governmental planning, environmental, and land development laws, regulations and ordinances apply to all development of land within this community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. The District shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the Marion County. The District shall take no action which is inconsistent with the Development Order of the On top of the World DRI.

**SECTION 6. COMPLIANCE WITH LAWS AND ORDINANCES.** The District shall comply with Chapter 190 Florida Statutes, and all applicable federal, state and regional laws, statutes, rules and regulations and all applicable provisions of the Marion county comprehensive Plan, Land Development Code provisions, ordinances, rules and regulations, and all provisions of the Development Order of the On Top of the World DRI.

**SECTION 7. NO MARION COUNTY OBLIGATION.** No debt, obligation or duty of the District shall constitute a debt, obligation, duty or burden of or on Marion County.

**SECTION 8. NO LIMITATION ON MARION COUNTY POWERS.** Establishment of the District in no way limits Marion County in the exercise of its powers or authority as provided for in Chapter 125, Florida Statutes, and other Florida Statutes, upon the property within the District.

**SECTION 9. REQUIRED DISCLOSURE.** The District shall comply with the disclosure of public financing and disclosure to purchaser requirements set forth in Section 190.009 and 190.048, Florida Statutes, as amended from time to time. The District shall comply with the notice of establishment requirements of Section 190.0485, Florida Statutes.

**SECTION 10. SEVERABILITY.** It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance 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 portions hereof.

**SECTION 11. EFFECTIVE DATE.** A certified copy of this Ordinance as enacted shall be filed by the Clerk of the Board with the Office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this Ordinance shall take effect in accordance with Section 125.66(2), Florida Statutes.

**DULY ADOPTED** in regular session by the Board of County Commissioners of Marion County this 5th day of November, 2002.

**ATTEST:**

  
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DAVID R. ELLSPERMANN, CLERK

**BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, FLORIDA**

  
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RANDY HARRIS, CHAIRMAN

RECEIVED NOTICE FROM SECRETARY  
OF STATE ON NOVEMBER 19, 2002  
THAT ORDINANCE WAS FILED ON  
NOVEMBER 12, 2002

INDIGO EAST  
COMMUNITY DEVELOPMENT DISTRICT

DESCRIPTION: A parcel of land lying in Sections 13 and 24, Township 16 South, Range 20 East and Sections 18 and 19, Township 16 South, Range 21 East, Marion County, Florida, being more particularly described as follows:

BEGINNING at the Northwest corner of said Section 18, run thence S.89°50'39"E., 1459.12 feet to the Northeast corner of the West 1/2 of the Northwest 1/4 of said Section 18; thence along the East boundary of said West 1/2 of the Northwest 1/4 of Section 18, S.00°31'27"W., 2648.50 feet to the Northeast corner of the West 1/2 of the Southwest 1/4 of said Section 18; thence along the East boundary of said West 1/2 of the Southwest 1/4 of Section 18, S.00°31'12"W., 2653.82 feet to the Northeast corner of the West 1/2 of the Northwest 1/4 of aforesaid Section 19; thence along the East boundary of the said West 1/2 of the Northwest 1/4 of Section 19, S.01°04'30"W., 42.23 feet; thence N.88°55'01"W., 1534.11 feet to a point on a curve and the Easterly Right-of-Way Line of SW 80<sup>th</sup> Avenue; thence along said Easterly Right-of-Way Line the following six (6) courses; 1) Northeasterly, 174.94 feet along the arc of a curve to the left having a radius of 3650.00 feet and a central angle of 02°44'46" (chord bearing, N.03°03'26"E., 174.92 feet); 2) N.01°42'18"E., 2349.91 feet to a point of curvature; 3) Northwesterly, 723.40 feet along the arc of a curve to the left having a radius of 1173.00 feet and a central angle of 35°20'06" (chord bearing, N.15°57'45"W., 711.99 feet) to a point of tangency; 4) N.33°37'48"W., 359.99 feet to a point on a curve; 5) Northwesterly, 414.60 feet along the arc of a curve to the right having a radius of 1073.00 feet and a central angle of 22°08'19" (chord bearing, N.22°31'43"W., 412.03 feet); 6) N.11°30'48"W., 1456.13 feet to a point on the North boundary of aforesaid Section 13; thence along said North boundary of Section 13, N.89°44'19"E., 888.27 feet to the POINT OF BEGINNING.

Containing 213.434 acres, more or less.

