

ORDINANCE NO.: 2003-04

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, ESTABLISHING THE STERLING HILL COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; MAKING FINDINGS OF FACT WITH RESPECT THERETO; SPECIFYING GENERAL AND SPECIAL POWERS OF THE DISTRICT; DESCRIBING THE BOUNDARIES OF THE DISTRICT; NAMING THE MEMBERS OF THE BOARD OF SUPERVISORS AND PROVIDING FOR ELECTIONS AND GENERAL DUTIES; PROVIDING FOR ADMINISTRATION, OPERATION AND FINANCING OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, DEVCO V, L.L.C., a limited liability corporation, has filed a petition with Hernando County ("Petition") requesting that the Board of County Commissioners of Hernando County ("County") adopt an ordinance establishing the Sterling Hill Community Development District ("District") pursuant to Chapter 190, Florida Statutes, and designating the real property described in Exhibit "A", attached hereto, as the area of land for which the District is authorized to manage and finance basic service delivery; and

WHEREAS, the District will constitute an efficient, effective and economical method of delivering community development services and facilities in the area described in Exhibit "A", within which area such community development services and facilities can be more feasibly provided at a level and quality appropriate to the District by the District, rather than by the County; and

WHEREAS, the District will provide a solution to the County's planning,

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

management and financing needs for the delivery of community development services and facilities to and within the **District** lands without overburdening the **County** and its taxpayers; and

WHEREAS, the **County** has held a public hearing on the Petition in accordance with the requirements and procedures of Section 190.005 (1)(d), Florida Statutes; and

WHEREAS, the **County** has considered the record of the public hearing and the factors set forth in 190.005 (1)(e), Florida Statutes.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION 1. FINDINGS OF FACT.

The **County** hereby finds and states that:

1. All statements contained in the Petition are true and correct.
2. The creation of the **District** is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the County's Comprehensive Plan.
3. The area of land within the proposed **District** is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developed as one functional, interrelated community.
4. The creation of the **District** is the best alternative available for delivering community development services and facilities to the area that will be served by the **District**.
5. The proposed community development services and facilities to be provided by the **District** will not be incompatible with the capacity and uses of existing

local and regional community development services and facilities.

6. The area that will be served by the **District** is amenable to separate, special-district government.

SECTION 2. STERLING HILL COMMUNITY DEVELOPMENT

DISTRICT ESTABLISHED

Pursuant to Chapter 190, Florida Statutes, the Sterling Hill Community Development District (“**District**”) is hereby created.

SECTION 3. GENERAL AND SPECIAL POWERS

The **District** shall have all general and special powers as set forth in Chapter 190, Florida Statutes, and as provided in this ordinance.

A. General Powers

The **District** shall have, and the **District’s Board of Supervisors** (hereinafter “**Board**”) may exercise all powers which can be granted to a Community Development District, pursuant to Chapter 190, Florida Statutes, or any other applicable law, except as may be limited herein. Such power shall include, but shall not be limited to, the following powers:

1. To sue and be sued in the name of the **District**; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire by purchase, gift, devise, or otherwise, and to dispose of real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

2. To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the **District** to pay employer contributions into the state retirement fund.

3. To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contract shall be subject to public bidding, competitive negotiation requirements as set forth in Section 190.033, Florida Statutes, as it may be amended from time to time.

4. To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the State, a unit of local government, or any person for any the **District** purposes allowed by law, and enter into arrangements required in connection therewith; and to hold, use, and dispose of such monies or property for any the **District** purpose allowed by law in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

5. To adopt rules and orders including bylaws and resolutions pursuant to the provisions of Chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the **District**; the conduct of the business of the **District**; the maintenance of records; and the form of certificate evidencing tax liens and all other documents and records of the **District**. The **District** may also adopt administrative rules with respect to any of the projects of the **District** and define the area to be included therein.

6. To maintain an office at such place or places as it may designate within Hernando County which office must be reasonably accessible to the landowners.

7. To hold, control, and acquire by donation, purchase, or condemnation any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this ordinance or applicable law and to make use of such easements, dedications, or reservations for any of the purposes authorized by this ordinance.

8. To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the **District** is authorized to undertake and facilities or property of any nature for the use of the **District** to carry out any of the purposes authorized by this ordinance.

9. To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as is hereinafter provided; to levy such taxes and special assessments as may be authorized; to charge, collect, and enforce fees and other user charges.

10. To raise, by user charges or fees authorized by resolution of the **Board**, amounts of money which are necessary for the conduct of the **District's** activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

11. To exercise within the **District**, or beyond the **District** boundaries with prior approval by resolution of the **County** if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of Chapters 73 and 74, Florida Statutes, over any

property within the state, except municipal county, state, and federal property, for the uses and purposes permitted by law relating solely to water, sewer, roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.

12. To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

13. To assess and impose upon lands in the **District** ad valorem taxes as provided by this act.

14. To determine, order, levy, impose, collect, and enforce special assessments pursuant to this act and Chapter 170, Florida Statutes. Such special assessments may, in the discretion of the **District**, be collected and enforced pursuant to the provisions of §197.3631, §197.3632, and §197.3635, or Chapter 170, Florida Statutes.

15. To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this ordinance.

16. To exercise all special powers as may be authorized by this ordinance.

B. Special Powers

Except as specifically restricted herein, the **District** shall have, and the **Board** may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any

area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this ordinance.

1. To finance, plan, fund, establish, acquire construct or reconstruct, enlarge, or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

- a) Water management and control for the lands within the **District** and to connect some or any of such facilities with roads and bridges.
- b) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof; and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.
- c) Notwithstanding anything to the contrary herein, the **District** shall not operate or provide, for fee or otherwise, any water supply, sewer or wastewater, reclamation or reuse services to residents within the **District** system unless the **County** is unable or unwilling to provide such services under generally applicable terms and conditions. .

- d) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.
- e) **District** roads, streets and streetlights, which shall equal or exceed applicable specifications of Hernando County.
- f) Notwithstanding anything to the contrary herein, the **District** shall have no powers with regard to any roads, streets, or streetlights which have been dedicated to and accepted for maintenance by the **County**.
- g) Buses, trolleys, transit shelters, public transportation facilities and services, parking improvements, and related signage.
- h) Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

- i) Conservation areas, mitigation areas, and wildlife habitats, including the maintenance of any plant or animal species, and any related interest in any real or personal property.

2. To undertake any other project within or without the boundaries of the **District** when a local government has issued a development order pursuant to §380.06 and §380.061 approving or expressly requiring the construction or funding of a project by the **District**, or when the project is the subject of an agreement between the **District** and a governmental entity as consistent with the Comprehensive Plan or the local government within which the project is to be located.

3. After the **Board** has obtained the consent of the local general purpose government within the jurisdiction of which the power specified in this subsection is to be exercised, to plan, acquire, construct, or reconstruct, enlarge or extend, equip, operate, maintain additional systems and facilities for.

- a) Parks and facilities for indoor and outdoor recreation, cultural, and educational uses.
- b) School buildings and related structures which may be leased, sold, or donated to the school district for use in the education system when authorized by the district school board.
- c) Security - including, but not limited to, guardhouses, fences and gates, electronic intrusion - detection systems and patrol cars, when authorized by proper government agencies; except that the **District** may not exercise any police power, but may

contract with the appropriate local general purpose government agencies for an increased level of such services within the **District**.

- d) Control and elimination of mosquitoes and other arthropods of public health importance.
- e) Fire prevention and control, including fire stations, hydrants, and associated vehicles and equipment.
- f) Waste collection and disposal.
- g) Notwithstanding anything to the contrary herein, the **District** shall not operate or provide, for fee or otherwise, any fire prevention and control or any waste collection or disposal services to residents within the **District** unless the **County** or other applicable service provider is unable or unwilling to supply such services under generally applicable terms and conditions.

4. To adopt and enforce appropriate rules following the procedures of Chapter 120, in connection with the provision of one or more services through its systems and facilities.

C. The **District** possesses no zoning or development permitting power. All Hernando County planning, building, environmental, and land development laws, regulations, and ordinances apply to all development of land within the **District**. The

District shall take no action which is inconsistent with the applicable Comprehensive Plan, ordinances, or regulations of Hernando County.

SECTION 4. BOUNDARIES OF THE DISTRICT

The **District** shall consist of all properties within the area described in Exhibit “A” attached hereto and incorporated herein.

SECTION 5. DISTRICT BOARD OF SUPERVISORS

A. The **Board** shall be the governing board of the **District**. The **Board** shall exercise the powers granted to the **District** pursuant to this ordinance and Chapter 190, Florida Statutes, as amended from time to time, and pursuant to any other applicable law.

1. The **Board** shall consist of five (5) members; except as otherwise provided herein or in section 190.006, Florida Statutes (2003), as amended from time to time, each member shall hold office for a term of four (4) years, until a successor is chosen and qualifies. The members of the **Board** must be residents of the State and citizens of the United States.
2. The five (5) persons designated to serve as the initial members of the **Board** are Donald A. Buck, Thomas H. Gray, Craig B. Weber, Mark A. Sifford, and Kenneth A. Jones.
3. Unless specifically provided otherwise in this ordinance, the provisions of section 190.006, Florida Statutes (2003), as amended from time to time, shall apply to elections and compensation of Board members and to meetings, organization and procedures of the **Board** and the **District**.

B. General Duties of the Board

1. The **Board** shall employ, and fix the compensation of a Manager for the **District**. The Manager shall have charge and supervision of the works of the **District** and shall be responsible for preserving and maintaining any improvement or facilities constructed or erected pursuant to the provisions of this ordinance or state statute, for maintaining and operating the equipment owned by the **District**, and for performing such other duties as may be prescribed by the **Board**. It shall not be a conflict of interest under Chapter 112 for a **Board** member or the Manager or another employee of the **District** to be a stockholder, officer, or employee of a landowner. The Manager may hire or otherwise employ and terminate the employment of such other persons, including without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the **Board**. The compensation and other conditions of employment of the officers and employees of the **District** shall be as provided by the **Board**.

2. The **Board** shall designate a person who is a resident of the State as Treasurer of the **District**, who shall have charge of the funds of the **District**. Such funds shall be disbursed only upon the order, or pursuant to the resolution, of the **Board** by warrant or check countersigned by the Treasurer and by such other person as may be authorized by the **Board**. The **Board** may give the Treasurer such other or additional powers and duties as the **Board** may deem appropriate, and may fix his or her compensation. The **Board** may require the Treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the **Board** to secure the performances by the Treasurer of his powers and duties. The financial records of the

Board shall be audited by an independent Certified Public Accountant at least once a year.

3. The **Board** is authorized to select as a depository for its funds any qualified public depository as defined in §280.02, Florida Statutes, which meets all the requirements of Chapter 280 and has been designated by the Treasurer as a qualified public depository, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited that the **Board** may deem just and reasonable.

SECTION 6. ADMINISTRATION, OPERATION AND FINANCING OF DISTRICT

The operation, duration, requirements for disclosure, including, but not limited to budget reporting, financial reporting, levying, or imposition of ad valorem taxes or special assessments and all other practices of the **District** shall be in accordance with Chapter 190, Florida Statutes, as it may be amended from time to time and any other applicable law.

SECTION 7. SEVERABILITY

It is declared to be the intent of the Board of County Commissioners of Hernando County, Florida, that if any section, subsection, clause, sentence, phrase or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

SECTION 8. INCLUSION IN THE CODE

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this ordinance shall become and

be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

SECTION 9. EFFECTIVE DATE

This ordinance shall become effective upon filing with the Department of State.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS in Regular Session this 12th day of March, 2003.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**



Attest: *Karen Nicolai*
KAREN NICOLAI
Clerk

By: *Mary E. Whitehouse*
MARY E. WHITEHOUSE
Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY *[Signature]* 3/6/03
County Attorney's Office

DESCRIPTION:

A parcel of land lying in Sections 9 and 10, Township 23 South, Range 18 East, Hernando County, Florida being more particularly described as follows:

Begin at a 4"X4" C.M. at the Northwest corner of Village Van Gogh, Plat Book 24, Pages 6 and 7; thence along the North line of said Section 9, S 89°37'16"E 1032.94 feet to a 4"X4" C.M. being the northwest corner of said Section 10; thence, along the North line of said Section 10, S 89°40'10" E 2641.07 feet to a 4"X4" C.M.; thence, along the East line of the NW 1/4 of said Section 10, S 00°07'06" W 2635.72 feet to a 4"X4" C.M. at the center of said Section 10; thence, along the East line of the SW 1/4 of said Section 10, S 00°09'08" W 2152.73 feet, thence, departing said East line, N 89°41'35" W 251.17 feet; thence S 00°09'08" W 430.04 feet to a point on the North right of way line Elgin Blvd; thence along the North right of way line Elgin Blvd., N 89°41'35" W 78.71 feet to a point of curvature to the right with a Delta of 59°28'05", a radius of 1345.00 feet, a chord of 1334.17 feet, bearing N 59°58'21"W; thence, along the arc of said curve, 1395.99 feet; thence, continuing on said right of way line, N. 30°14'19"W 3718.75 feet to a point of curvature to the left with a Delta of 37°02'54", a radius of 805.00 feet, a chord of 511.50 feet, bearing N 48°47'29"W; thence, along the arc of said curve, 520.53 feet to a point at the Southeast corner of said Village Van Gogh; thence N 22°44'04"E 225.74 feet to a point of curvature to the right with a Delta of 01°11'02", a radius of 1030.74 feet, a chord of 21.30 feet, bearing N 66°42'48" W thence, along the arc of said curve, 21.30 feet; thence N 23°55'06"E 235.00 feet; thence N 00°10'59"W 430.97 feet; thence N 89°36'30" W 120.68 feet; thence N 00°23'30" E 175.00 feet to the Point of Beginning.

A parcel of land lying in Sections 9 and 10, Township 23 South, Range 18 East, Hernando County, Florida more particularly described as follows:

Begin at the South 1/4 corner of said Section 9; thence, along the East line of the SW 1/4 of said Section 9, N.00°16'14" E 2161.09 feet; thence, departing said Section line, N 09°50'25"E 787.57 feet; thence N 23°43'59"E 586.33 feet; thence N.12°20'16"E 581.58 feet; thence N 00°22'46"E 160.39 feet to a point on the Southerly right of way line Elgin Blvd; thence, along said right of way line S 89°39'36"E 748.72 feet to a point of curvature to the right with a Delta of 59°22'55", a radius of 695.00 feet; a chord of 688.50 feet, bearing S 59°57'46"E; thence along the arc of said curve 720.31 feet; thence continuing along said right of way line S 30°14'19"E 1745.38 feet; thence departing said right of way line, S.59°45'46"W 926.71 feet; thence S 30°14'19"E 1831:56 feet; thence S 65°19'26"W 163.10 feet; thence S 81°21'24" W 275.00 feet; thence S 00°19'58"W 200.00 feet to a point on the South line of the SE 1/4 of said Section 9, thence, along said Section line, N 89°41'28"W 2430.33 feet to the Point of Beginning.

Exhibit A

I hereby certify that the foregoing is a true and correct copy of the original
Karen Nicolai, Clerk Circuit Court, Hernando County, Florida:

By *Ana Martinson* D.C.

