

NOV 10 1992 SD

ORANGE COUNTY ORDINANCE NO. 92-37

1 AN ORDINANCE TO BE KNOWN AS THE
2 INTERNATIONAL DRIVE MASTER TRANSIT AND
3 IMPROVEMENT DISTRICT ORDINANCE; PROVIDING
4 THE DEFINITIONS AND RULES OF
5 CONSTRUCTION; CREATING THE INTERNATIONAL
6 DRIVE MASTER TRANSIT AND IMPROVEMENT
7 DISTRICT AS AN INDEPENDENT SPECIAL
8 DISTRICT; PROVIDING FOR THE APPOINTMENT,
9 TERMS AND COMPENSATION OF THE GOVERNING
10 BOARD OF SUCH DISTRICT; CREATING THE
11 INTERNATIONAL DRIVE ADVISORY BOARD AND
12 SETTING FORTH ITS ROLE AND
13 RESPONSIBILITIES; PROVIDING GENERAL
14 POWERS OF THE DISTRICT; DECLARING THE
15 EXCLUSION FROM THE ADMINISTRATIVE
16 PROCEDURES ACT; ABOLISHING THE DISTRICT
17 ON OCTOBER 1, 1998; PROVIDING FOR
18 SEVERABILITY; PROVIDING FOR THE SUNSET OF
19 THIS ORDINANCE; AND PROVIDING AN
20 EFFECTIVE DATE.

21 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
22 ORANGE COUNTY, FLORIDA:

23 ARTICLE I

24 INTRODUCTION

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

"Advisory Board" means the advisory board of the
District constituted pursuant to Section 2.04.

"Bus Service Area" means the International Drive Bus
Service Area created by Section 2.07 hereof.

"Chairman" means the Orange County Chairman, or the
person holding the office that succeeds in function to the
Orange County Chairman.

"City" means the City of Orlando.

"City Council" means the governing body of the City.

"County" means Orange County, a political subdivision of the State of Florida.

"County Commission" means the Board of County Commissioners of Orange County, Florida.

"District" means the International Drive Master Transit and Improvement District created by Section 2.01 hereof.

"Fiscal Year" means any year beginning on October 1 and ending on the next succeeding September 30.

"Governing Board" means the governing board of the District constituted pursuant to Section 2.02 or 2.06 hereof.

"North International Drive Improvement Area" means the North International Drive Improvement Area created by Section 2.08 hereof.

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

(A) In case of any difference of meaning or implication between the text of this 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

1 and the plural the singular, unless the context clearly
2 indicates the contrary; and words of any gender include the
3 words the other genders.

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

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

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

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

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

20 ARTICLE II

21 INTERNATIONAL DRIVE MASTER TRANSIT AND IMPROVEMENT DISTRICT

22 SECTION 2.01. CREATION. The International Drive Master
23 Transit and Improvement District is hereby created for the
24 purpose of planning, designing, acquiring, constructing,
25 operating and maintaining public transit systems, facilities
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1 and services within the District; developing plans and
2 recommendations to state and local governments for programs
3 and projects to alleviate traffic congestion and beautify
4 transportation corridors within the District; developing
5 plans and recommendations to state and local governments for
6 other physical improvements and programs needed to foster
7 mobility and security within the District; and implementing
8 a marketing and promotion program to benefit the District.
9 The District shall include the property described in Appendix
10 A. It is the intent of this Ordinance that the District is
11 an independent special district created pursuant to the
12 authority of the first sentence of Section 9(b), Article VII,
13 of the Florida Constitution and pursuant to Section
14 125.01(5), Florida Statutes.

15 **SECTION 2.02. APPOINTMENT OF GOVERNING BOARD.**

16 (A) The Governing Board of the District shall consist
17 of three members, two of whom shall be members of the County
18 Commission and one of whom shall be a member of the City
19 Council of the City of Orlando.

20 (1) The Chairman shall be a member of the
21 Governing Board; provided however, that if the Chairman
22 declines to serve, the County Commission shall appoint
23 another of its members to serve as a member of the
24 Governing Board until the Chairman consents to serve.

25 (2) The County Commission shall appoint a County
26 Commission member representing a County Commission
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1 district encompassing all or part of the geographical
2 area of the District to serve as a member of the
3 Governing Board; provided however, that if all County
4 Commission members whose district encompasses all or
5 part of the geographical area of the District decline to
6 serve as a member of the Governing Board, the County
7 Commission shall appoint another of its members to serve
8 as a member of the Governing Board until one of such
9 members consents to serve.

10 (3) The City Council shall appoint a City Council
11 member representing a City Council district encompassing
12 all or part of the geographical area of the District to
13 serve as a member of the Governing Board; provided
14 however, that if all City Council members whose district
15 encompasses all or part of the geographical area of the
16 District decline to serve as a member of the Governing
17 Board, the City Council shall appoint another of its
18 members to serve as a member of the Governing Board
19 until one of such members consents to serve.

20 (B) A vacancy on the Governing Board shall occur by
21 resignation of a member or by a vacancy in the seat on the
22 County Commission or City Council whose member served on the
23 Governing Board prior to the vacancy occurring. Upon the
24 occurrence of a vacancy on the Governing Board, a new member
25 shall be appointed to fill the unexpired term by the County
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1 Commission or City Council, as appropriate, using the
2 appointment criteria set forth in Section 2.02(A) hereof.

3 (C) Governing Board members shall serve without
4 compensation, except that they may be reimbursed for
5 reasonable travel and per diem expenses incurred in the
6 course of their duties and responsibilities as Governing
7 Board members. Any such reimbursement for travel or per diem
8 expenses shall be in amounts authorized pursuant to Chapter
9 112, Florida Statutes.

10 (D) A quorum shall consist of two members of the
11 Governing Board, and official action shall be taken only upon
12 the affirmative vote of not less than two members. The
13 Governing Board may adopt by-laws for election of officers
14 and orderly proceedings.

15 **SECTION 2.03. GENERAL POWERS OF THE GOVERNING BOARD.**

16 (A) The Governing Board shall have the following
17 authority and power within the District:

18 (1) to plan and design public transit facilities
19 and services within the District;

20 (2) to acquire, construct, manage, administer,
21 operate, supervise, oversee and maintain public transit
22 facilities and services within the Bus Service Area;

23 (3) to fix and collect fares, rates, fees, tolls
24 and other charges by resolution to persons or property
25 or both for the use of public transit facilities and
26 services within the Bus Service Area;

1 (4) to adopt and implement rules, regulations,
2 policies and procedures for the management, operation
3 and maintenance of public transit facilities and
services within the Bus Service Area;

4 (5) to develop plans and recommendations to state
5 and local governments for programs and projects to
6 alleviate traffic congestion and beautify transportation
7 corridors within the North International Drive
8 Improvement Area;

9 (6) to develop plans and recommendations to state
10 and local governments for other physical improvements
11 and programs needed to foster mobility and security
12 within the North International Drive Improvement Area;

13 (7) to evaluate alternative sources of revenue to
14 fund the activities of the District, including but not
15 limited to special assessments, sales taxes, admissions
16 taxes, food and beverage taxes, and ad valorem taxes
17 that are not within the millage limitations imposed upon
18 the City or County, that are consistent with the funding
19 limitations set forth in Section 2.09 hereof;

20 (8) to market and promote the District;

21 (9) to adopt rules for its own conduct and
22 proceedings and to adopt an official seal for the
23 District;

1 (10) to adopt a budget at the same time and in the
2 same manner as the County Commission prepares and adopts
3 its annual county budget;

4 (11) to appropriate and expend revenue of the
5 District;

6 (12) to employ personnel and to take all other
7 actions consistent with generally accepted employment
8 practices;

9 (13) to retain attorneys, accountants, architects,
10 engineers, financial consultants and other consultants,
11 professionals and agents;

12 (14) to apply for and accept, on behalf of and in
13 the name of the District, any grant of money or property
14 from any governmental body or private organization, and
15 to enter into contracts incidental thereto;

16 (15) to serve as agent for and to enter into
17 contracts on behalf of and in the name of the District;

18 (16) to contract to receive and expend money, to
19 sue and be sued, and generally to perform all other acts
20 necessary or incidental to the express powers and duties
21 granted or imposed by this Ordinance, all on behalf of
22 and in the name of the District;

23 (17) to purchase, lease or otherwise acquire real
24 and personal property and generally to take all other
25 actions regarding such property as may be necessary in
26 the prudent management, operation and maintenance of the
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1 District, all on behalf of and in the name of the
2 District; and

3 (18) to incur obligations payable from the proceeds
4 of any fees, charges, fines, rentals, grants or other
5 sources of revenue which may be or become available to
6 the District; and to make all customary or necessary
7 covenants for the security of such obligations,
8 including covenants to assure the adequacy of such
9 revenues and the proper collection, holding and
10 disposition thereof.

11 (B) Notwithstanding the foregoing, the Governing Board
12 shall not (1) acquire or construct any capital project,
13 initiate any new service or impose any tax or assessment
14 without the affirmative recommendation of the Advisory Board;
15 or (2) disregard any other recommendation made by the
16 Advisory Board in the absence of a specific written finding
17 by the Governing Board to the effect that the Advisory
18 Board's recommendation is not in the best interests of the
19 District.

20 (C) Prior to January 1, 1994, the Governing Board shall
21 identify and develop an alternative source to replace any
22 revenue derived by the District from contracts with the
23 County that are funded from ad valorem taxes levied in the
24 International Drive Master Transit and Improvement District
25 Municipal Service Taxing Unit, the International Drive Bus
26 Service Municipal Taxing Unit and the North International
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1 Drive Improvement Municipal Service Taxing Unit. The
2 District's budget for the Fiscal Year beginning on October 1,
3 1994 shall include revenue derived from the alternative
4 source and shall not include revenue derived from contracts
5 with the County that are funded from ad valorem taxes levied
6 in the foregoing municipal service taxing units.
7 Notwithstanding the foregoing, the County Commission may
8 extend the date for compliance with this Section 2.03(C) by
9 adoption of a resolution at any regular or special meeting.

10 **SECTION 2.04. APPOINTMENT OF ADVISORY BOARD.**

11 (A) The Advisory Board shall consist of five members,
12 three of whom shall be appointed by the County Commission and
13 two of whom shall be appointed by the City Council. Each
14 member shall be either the owner of property within the
15 District, an owner of an interest in an entity that is the
16 owner of property within the District, an employee of a
17 property owner or a designated representative of a property
18 owner within the District.

19 (1) The members first appointed shall serve terms
20 as follows: (a) two of the members appointed by the
21 County Commission shall each serve an initial term of
22 four years, (b) the third member appointed by the County
23 Commission shall serve an initial term of three years,
24 (c) one member appointed by the City Council shall serve
25 an initial term of two years, and (d) the second member
26 appointed by the City Council shall serve an initial

1 term of one year. The first year of each initial term
2 shall be deemed to have expired on the last day of the
3 Fiscal Year during which the initial members are
4 appointed. Thereafter, all members shall serve terms of
5 four years, except that each member shall continue to
6 serve beyond his or her term until a successor is
7 appointed, and the term of the successor shall be
8 reduced by the amount of the holdover.

9 (2) Any member may be removed by his or her
10 appointing authority (County Commission or City Council)
11 (a) because such member has ceased to be the owner of
12 property within the District, an owner of an interest in
13 an entity that is the owner of property within the
14 District, an employee of a property owner or a
15 designated representative of a property owner within the
16 District, (b) for good cause affecting his ability to
17 perform the duties of a member, or (c) for misfeasance,
18 malfeasance, or nonfeasance in office.

19 (3) Within 90 days after the occurrence or
20 discovery of a vacancy on the Advisory Board, the County
21 Commission or City Council, as appropriate, shall
22 appoint a new member to serve during the unexpired
23 portion of the term.

24 (B) Members shall serve without compensation, except
25 that they may be reimbursed for reasonable travel and per
26 diem expenses incurred in the course of their official duties

1 and responsibilities. Any such reimbursement for travel or
2 per diem expenses shall be in amounts authorized pursuant to
3 Chapter 112, Florida Statutes.

4 (C) A quorum shall consist of three members of the
5 Advisory Board, and official action shall be taken only upon
6 majority vote of the members present and voting. The
7 Advisory Board may adopt by-laws for election of officers and
8 orderly proceedings.

9 **SECTION 2.05. POWERS OF THE ADVISORY BOARD.**

10 (A) The Advisory Board shall oversee and provide
11 administrative direction to the District and shall make
12 recommendations concerning all matters and decisions coming
13 before the Governing Board, including but not limited to:

14 (1) the District's annual budget, including
15 recommended sources and uses of funds for District
16 programs and activities;

17 (2) the type of public transit systems; the
18 routes, hours and frequency of public transit service;
19 and the performance standards for public transit
20 systems;

21 (3) performance standards to be included in
22 contracts for public transit service;

23 (4) the need for staff or professional services;

24 (5) the type and extent of street, pedestrian,
25 beautification and streetscape improvements needed
26 within the District;

1 (6) the expansion or contraction of the Bus
2 Service Area, and the North International Drive
3 Improvement Area.

4 (7) the potential revenue sources to fund future
5 activities of the District; and

6 (8) all other activities proposed to be undertaken
7 with District funds.

8 (B) The Advisory Board shall monitor the performance of
9 all service contractors and shall coordinate directly with
10 all service contractors to ensure compliance with contractual
11 performance standards.

12 (C) The Advisory Board shall provide recommendations
13 to the County Commission on (1) any ad valorem tax millage to
14 be levied (within the funding limitations set forth in
15 Section 2.09 hereof) in the International Drive Master
16 Transit and Improvement District Municipal Service Taxing
17 Unit, the International Drive Bus Service Municipal Taxing
18 Unit and the North International Drive Improvement Municipal
19 Service Taxing Unit; and (2) any expansion or contraction of
20 the International Drive Bus Service Municipal Taxing Unit and
21 the North International Drive Improvement Municipal Service
22 Taxing Unit.

23 **SECTION 2.06. AUTHORITY OF THE ADVISORY BOARD TO ASSUME**
24 **RESPONSIBILITIES OF THE GOVERNING BOARD.** In the event that
25 Section 125.01(5), Florida Statutes, is amended to allow the
26 membership of a special district created pursuant thereto to

1 consist of non-elected members who are not members of a board
2 of county commission or governing body of a municipality, the
3 Governing Board membership shall be changed to include non-
4 elected officials as follows:

5 (A) If Section 125.01(5), Florida Statutes, allows a
6 governing board to consist solely of non-elected members and
7 if the County Commission and City Council adopt resolutions
8 approving the implementation of this Section 2.06(A), (1) the
9 Governing Board shall be dissolved and (2) the Advisory Board
10 shall be reconstituted as the Governing Board and shall
11 assume all of the duties and responsibilities of the
12 Governing Board and the Advisory Board. Thereafter the
13 provisions for appointment and removal of Advisory Board
14 members set forth in Section 2.04(A) shall be applicable to
15 the reconstituted Governing Board. A quorum for the
16 reconstituted Governing Board shall consist of three members,
17 and official action shall be taken only upon the affirmative
18 vote of three members.

19 (B) If Section 125.01(5), Florida Statutes, requires
20 the membership of a governing board to consist in part of
21 members of a board of county commissioners or city council
22 and if the County Commission and City Council adopt
23 resolutions approving the implementation of this Section
24 2.06(B), (1) the Governing Board and the Advisory Board shall
25 be combined and (2) the combined Governing Board shall assume
26 all of the duties and responsibilities of the Governing Board

1 and the Advisory Board. Thereafter the provisions for
2 appointment and removal of Advisory Board members set forth
3 in Section 2.04(B) shall be applicable to the Governing Board
4 members who are not elected public officials. A quorum for
5 the combined Governing Board shall consist of five members,
6 and official action shall be taken only upon the affirmative
7 vote of five members.

8 **SECTION 2.07. BUS SERVICE AREA.** The Bus Service Area
9 is hereby created for the purpose of providing public transit
10 services within its boundaries. The Bus Service Area shall
11 include the property described in Appendix B.

12 **SECTION 2.08. NORTH INTERNATIONAL DRIVE IMPROVEMENT**
13 **AREA.** The North International Drive Improvement Area is
14 hereby created for the purpose of improving and beautifying
15 that segment of International Drive located within its
16 boundaries. The North International Drive Improvement Area
17 shall include the property described in Appendix C.

18 **SECTION 2.09. RESTRICTION ON TAXES AND ASSESSMENTS.**

19 (A) The Governing Board shall not impose taxes or
20 special assessments within the District or enter into a
21 contract with the County funded from ad valorem taxes imposed
22 within a municipal service taxing unit (other than taxes or
23 special assessments that are imposed only within the Bus
24 Service Area or the North International Drive Improvement
25 Area or contracts funded from taxes imposed within the
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1 International Drive Bus Service Municipal Taxing Unit and the
2 North International Drive Improvement Municipal Service
3 Taxing Unit) which, in the aggregate, generate revenue in any
4 Fiscal Year in excess of that which would be generated by a
5 0.1 mill ad valorem tax levied upon taxable real and personal
6 property within the District.

6 (B) The Governing Board shall not impose taxes or
7 special assessments within the Bus Service Area or enter into
8 a contract with the County funded from ad valorem taxes
9 imposed within a municipal service taxing unit (other than
10 taxes or special assessments that are imposed throughout the
11 District or are imposed only within the North International
12 Drive Improvement Area or contracts funded from taxes imposed
13 within the International Drive Master Transit and Improvement
14 District Municipal Service Taxing Unit and the North
15 International Drive Improvement Municipal Service Taxing
16 Unit) which, in the aggregate, generate revenue in any Fiscal
17 Year in excess of that which would be generated by a 1.0 mill
18 ad valorem tax levied upon taxable real and personal property
19 within the Bus Service Area.

20 (C) The Governing Board shall not impose taxes or
21 special assessments within the North International Drive
22 Improvement Area or enter into a contract with the County
23 funded from ad valorem taxes imposed within a municipal
24 service taxing unit (other than taxes or special assessments
25 that are imposed throughout the District or are imposed only
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1 within the Bus Service Area or contracts funded from taxes
2 imposed within the International Drive Master Transit and
3 Improvement District Municipal Service Taxing Unit and the
4 International Drive Bus Service Municipal Service Taxing
5 Unit) which, in the aggregate, generate revenue in any Fiscal
6 Year in excess of that which would be generated by a 0.2 mill
7 ad valorem tax levied upon taxable real and personal property
8 within the North International Drive Improvement Area.

9 **ARTICLE III**

10 **MISCELLANEOUS PROVISIONS**

11 **SECTION 3.01. DECLARATION OF EXCLUSION FROM**
12 **ADMINISTRATIVE PROCEDURES ACT.** Nothing contained in this
13 Ordinance shall be construed or interpreted to include the
14 District, its Governing Board or Advisory Board in the
15 definition of agency contained in Section 120.52, Florida
16 Statutes, or to otherwise subject the District, its Governing
17 Board or Advisory Board to the application of the
18 Administrative Procedures Act, Chapter 120, Florida Statutes.
19 This declaration of intent and exclusion shall apply to all
20 proceedings taken as a result of or pursuant to this
21 Ordinance.

22 **SECTION 3.02. ABOLITION OF DISTRICT.** The District is
23 abolished on October 1, 1998. Notwithstanding any other
24 provision of this Ordinance to the contrary, the Governing
25 Board shall not be empowered to incur any obligation or enter
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1 into any agreement requiring performance after September 30,
2 1998.

3 **SECTION 3.03. SEVERABILITY.** If any clause, section or
4 provision of this Ordinance shall be declared
5 unconstitutional or invalid for any reason or cause, the
6 remaining portion of said Ordinance shall be in full force
7 and effect and be valid as if such invalid portion thereof
8 had not been incorporated herein.

9 **SECTION 3.04. SUNSET PROVISION.** This Ordinance is
10 hereby repealed on October 1, 1998.

11 **SECTION 3.05. EFFECTIVE DATE.** A certified copy of this
12 Ordinance shall be filed with the Department of State by the
13 Clerk of the Board of County Commissioners within ten days
14 after enactment by the Board. This Ordinance shall take
15 effect upon the occurrence of both of the following events:
16 (A) receipt by the Board of official acknowledgement that
17 this Ordinance has been filed with the Secretary of State and
18 (B) approval by the City of the inclusion of a portion of the
19 incorporated area of the City within the District, as
20 required by Section 125.01(5)(a), Florida Statutes.
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