

Indigo Community Development District

475 West Town Place, Suite 114

St. Augustine, Florida 32092

www.IndigoCDD.com

February 28, 2025

Board of Supervisors
Indigo Community Development District
Call In # 1-877-304-9269 Code 2811728

Dear Board Members:

The Indigo Community Development District Board of Supervisors Meeting is scheduled to be held on **Friday, March 7, 2025 at 1:00 p.m. at the Fairfield by Marriott Daytona Beach, 1820 Checkered Flag Boulevard, Daytona Beach, Florida 32114.**

Following is the agenda for the meeting:

- I. Roll Call
- II. Public Comment (Limited to 3 minutes per person)
- III. Consideration of Tri-Party Agreement
- IV. Consideration of Resolution 2025-02, Designating Officers
- V. Supervisors' Requests and Public Comment (Limited to 3 minutes per person)
- VI. Next Scheduled Meeting - Wednesday, March 26, 2025 at 1:00 p.m. at the Fairfield by Marriott Daytona Beach, 1820 Checkered Flag Boulevard, Daytona Beach, Florida
- VII. Adjournment

THIRD ORDER OF BUSINESS

TRI-PARTY AGREEMENT

This Tri-Party Agreement (the "Tri-Party Agreement") is made and entered into this day of [March __, 2025] (the "Effective Date"), by and among:

INDIGO COMMUNITY DEVELOPMENT DISTRICT, a local unit of special purpose government established pursuant to Chapter 190, *Florida Statutes*, being situated in the City of Daytona Beach, Volusia County, Florida, and whose mailing address is [_____] (the "District");

and

INDIGO CDD HOLDINGS, INC. a Florida corporation, and whose mailing address is [_____], and its successors and assigns (the "SPE");

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as successor Trustee, under a trust indenture, as amended, pursuant to the issuance of the Indigo Community Development District Capital Improvement Revenue Bonds, Series 1999C and 2005 (the "Trustee").

RECITALS

WHEREAS, the District is a community development district duly established and existing pursuant to Chapter 190, *Florida Statutes*, as amended (the "Act"), and is validly existing under the Constitution and laws of the State of Florida; and

WHEREAS, the Act authorizes the District to issue bonds for the purpose, among others, of planning, financing, constructing, operating and/or maintaining certain infrastructure, including, but not limited to, roadway improvements; recreation improvements; undergrounding of electrical utilities; water and sanitary sewer; surface water management; security and landscaping improvements within or without the boundaries of the District; and

WHEREAS, the District originally issued its (i) \$8,515,000 in original aggregate principal amount of Indigo Community Development District Capital Improvement Revenue Bonds, Series 1999C (the "1999C Bonds") pursuant to a Master Trust Indenture dated as of July 1, 1999 (the "Master Indenture"), as supplemented by the Third Supplemental Trust Indenture dated as of December 1, 1999, and each by and between the District and the Trustee (together, the "1999C Indenture"), and (ii) \$14,710,000 in original aggregate principal amount of Indigo Community Development District Capital Improvement Revenue Bonds, Series 2005 (the "2005 Bonds" and together with the 1999C Bonds, the "Bonds") pursuant to the Master Indenture, as supplemented by the Fourth Supplemental Trust Indenture dated as of February 1, 2005, and each by and between the District and the Trustee (together, the "2005 Indenture" and together with the 1999C Indenture, the "Indentures"); and

WHEREAS, pursuant to Chapters 170 and 190, *Florida Statutes*, the District levied non-ad valorem special assessments securing the 1999C Bonds (the "1999C Assessments") and the

2005 Bonds (the "2005 Assessments"), respectively, on those benefitted lands within the District; and

WHEREAS, in light of the certain delinquencies in the 1999C Assessments and the 2005 Assessments (together, the "Delinquent Assessments"), the District originally filed for foreclosure against various parties with interests in such lots (the "Foreclosed Lots") in connection with the Delinquent Assessments as required under Florida law and the terms of the Indentures; and

WHEREAS, in connection with the foreclosure suit, the Trustee, at the direction of the Holders of the Bonds, entered into an Independent Contractor Agreement dated as of April 15, 2024 with Lerner Real Estate Advisors, Inc., a Florida corporation ("Lerner") to help protect the interest of the owners of the Bonds and the District and help analyze certain Foreclosed Lots; and

WHEREAS, in the course of such foreclosure suit, with the help of Lerner, the District and the Trustee, at the direction of the Holders of the Bonds, entered into certain settlement agreements with various lot owners, effectively, releasing various lots from the original foreclosure suit;

WHEREAS, the foreclosure sale occurred on November 13, 2024 (the "Foreclosure Sale") and the District took title to various parcels, described on Exhibit A attached hereto (the "Property"); and

WHEREAS, the Trustee and the District have requested that Lerner form or cause to be formed a special purpose entity, solely to own, manage and maintain the Property on behalf of, and for the benefit of the District, which, in turn, ultimately acts for the benefit of the Bondholders with respect to the Property, [and Lerner has or will form the SPE for this purpose]; and

WHEREAS, the Parties acknowledge and agree that they intend that the SPE acquire fee title to the Property by transfer of such Property from the District, as grantor, to the SPE, as grantee; and

WHEREAS, the District, the SPE and the Trustee, believe that it is in their respective and collective best interests for the SPE to own, maintain, sell and/or dispose of the Property for the benefit of the District, who, in turn, ultimately acts for the benefit of the Bondholders with respect to the Property; and

WHEREAS, the entities or individuals collectively comprises of or representing the holders of a majority in aggregate principal amount of the outstanding Bonds (the "Majority Owners") have reviewed this Agreement and have consented to its terms and execution by the Trustee; and

WHEREAS, the Parties desire to enter into this Agreement concerning the Property and warrant that they have the right, power and authority to enter into and be bound by this Agreement; and

WHEREAS, capitalized terms used herein and not otherwise defined in this Agreement shall have the meanings given to such terms in the Indentures; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for Ten and no/100ths (\$10.00) Dollars from the District to the SPE and other good and valuable consideration between the parties, the receipt and sufficiency of which are hereby acknowledged by the parties, and subject to the terms and conditions hereof, the parties agree as follows:

1. INCORPORATION OF RECITALS. The recitals stated above are true and correct and by this reference are incorporated by reference as a material part of this Agreement.

2. SCOPE OF SERVICES. Subject to the terms and conditions set forth in this Agreement and with the Trustee's consent, the District hereby appoints and authorizes the SPE to, and the SPE agrees to, own, maintain, sell and/or dispose of the Property for the benefit of the District, who, in turn, acts for the benefit of the Bondholders solely in relation to the maintenance and disposal of the Property. Subject to the approval and direction of the Majority Owners, and subject to the terms of this Agreement, the SPE may undertake the following: (i) administer, control and manage the Property; (ii) negotiate, administer, control, manage or otherwise deal with vendors for and/or purchasers of the Property; (iii) give or refuse to give any consents, approvals or waivers in connection with the Property; (iv) enforce or refrain from enforcing any matters relating to the Property; (v) make decisions in connection with the day-to-day administration of the Property; (vi) consummate and close any sale for all or a portion of the Property and distribute proceeds from the sale in accordance with Section 3(a) of this Agreement; and (vii) to exercise all such powers as are incidental to any of the foregoing matters.

Subject to representations, warranties and agreements contained herein, the SPE shall exercise the same degree of care, skill, prudence, diligence, and professional judgment in administering the Property as is the customary and usual practice of management companies, which administer and manage property for their own portfolios and on behalf of others. The SPE shall do so in the manner which the SPE shall deem appropriate and to the extent contemplated by and substantially in accordance with the direction provided by the District and consented to by the Trustee. The SPE shall otherwise have no liability or responsibility to the District or Trustee except as otherwise provided herein.

3. GENERAL PROVISIONS APPLICABLE TO THE SPE. The Parties acknowledge that the sole source of funds necessary to operate the SPE and own, operate, and maintain the Property will be provided by the District through funding from the Trustee and pursuant to the terms of this Agreement. The Parties acknowledge that the District will not impose annual maintenance assessments on the Property but instead will request funds from the Trustee on a quarterly basis (based on the District's Fiscal Year). The District will depend on these monies to fund the SPE's portion of the District's annual operating budget assigned to the Property and to pay costs associated with the Property that are not included in the District's Operation and Maintenance Budget (each a "Quarterly Funding Request"). The Trustee agrees that it will use available amounts on deposit in the funds and accounts comprising the Trust Estate, including any proceeds received from the sale of all or a portion of the Property, subject to the consent of the Majority Owners, to pay the Quarterly Funding Requests no later than fifteen (15) days from the date of receipt from the District of any Quarterly Funding Request. Should funding from the Trustee cease or otherwise become delinquent for a period of sixty (60) days, the Parties acknowledge that the District may impose maintenance assessments upon the Property and take all actions necessary to collect such maintenance assessments, including a sale of the Property for

the amount of unpaid assessments, which determination shall be the exclusive right of the District. Nevertheless, the inability of the Trustee to pay a Quarterly Funding Request due to unavailable or insufficient funds in the Trust Estate shall not constitute a default under this Agreement.

(a) Distribution of Proceeds of the Sale of All or a Portion of the Property: Whenever, and to the extent, the SPE receives cash from the sale of all or a portion of the Property, all such monies shall be promptly remitted to the Trustee through the District, who shall then apply all such monies pursuant to the Indentures and this Agreement.

(b) Requests for Approval. Recognizing the District's limitations in providing direction without a duly noticed meeting of the Board of Supervisors, if the SPE requests the consent, approval or concurrent action of the District and/or Trustee, such party(ies) shall respond and either approve or disapprove definitively in writing to the SPE within thirty (30) business days after written request from the SPE, unless circumstances dictate a need for an earlier response which shall be so stated in the request.

(c) Budgets of the SPE. The SPE shall annually, not later than fifteen (15) days prior to the commencement of each fiscal year, adopt an annual budget for operations and maintenance activities, including fees and expenses of legal counsel, accountants, and other agents retained by the SPE. A draft of each annual budget shall be furnished by the SPE to the Trustee and to each Bondholder requesting a copy of the same, not later than sixty (60) days prior to the commencement of the new fiscal year. A copy of each adopted budget shall be provided upon adoption to the Trustee and to each Bondholder requesting a copy of same. The SPE acknowledges that, in holding the Property, it is serving for the benefit of the Trustee and the Bondholders and will act in a commercially reasonable manner so as to minimize the operating expenses of the SPE so as to maximize the recovery to Bondholders from the Property. Nothing herein should be construed to abrogate the statutory budgetary responsibilities of the District pursuant to Section 190.008, Florida Statutes. Contemporaneous with the execution of this Agreement, the Trustee will provide the District with five thousand dollars [\$5,000.00] to be deposited into the SPE's operating account to pay for fees and expenses of the SPE, including insurance coverage, and other anticipated "start-up" costs. Thereafter, the District should include along with its Quarterly Funding Requests for operation and maintenance expenses of the District, a SPE Quarterly Funding Request to pay for fees and expenses of the SPE in accordance with SPE's fiscal year budget as provided in this section.

(d) SPE May Act Through Agents; Answerable Only for Gross Negligence, Willful Misconduct or Violation of Law. The SPE may execute any powers hereunder and perform any duties required of it through attorneys, agents, officers, employees, and shall be entitled to advice of Counsel concerning all questions hereunder. [Neither the SPE nor the District, as the sole member of the SPE (the "Sole Member"), nor Lerner Real Estate Advisors, Inc., a Florida corporation or any successor, as the manager of the SPE (the "Manager"), nor any Board Member or Delegated Person (as hereinafter defined) shall be answerable for the exercise of discretion or power pursuant to this Agreement nor for anything whatever in connection with the contractual relationships hereunder, except only for its own gross negligence, willful misconduct or violation of law or this Agreement. The SPE shall act solely in accordance with this Agreement, and its operating agreement. This paragraph shall in no way be construed to relieve the SPE of its normal and usual obligations of a reasonably prudent entity performing similar duties.

(e) Reliance by Parties. Each party hereto may act on any resolution, notice, telegram, facsimile transmission, request, consent, waiver, certificate, statement, affidavit or other paper or document or telephone message (provided such message shall be preserved in writing by the SPE) which it in good faith believes to be genuine and to have been passed, signed or given by the persons purported to be authorized (which in the case of the District shall be the Chair or Vice-Chair). No party shall be under any duty to make any investigation as to any statement contained in any such instrument, but may accept the same as conclusive evidence of the accuracy of such statement.

(f) Insurance. The SPE shall, prior to the receipt of fee title to any portion of the Property, file with the District and Trustee proof of insurance including, but not necessarily limited to, errors and omissions, property, casualty, and liability insurance. All such policies of insurance shall be issued by an insurance company and with coverage satisfactory to the District and the Trustee and shall name the District, the Trustee, and the Manager as additional insured parties under the policy. All insurance required by this paragraph shall remain in full force and effect for the entire term of this Agreement.

(g) Tax (TRIM) or Other Notices. As fee title holder of the Property, the SPE shall be the owner of record for purposes of real estate taxes and other notices concerning the Property ("Property Costs"). Upon receipt of a notice or knowledge of a material matter relating to the property including, but not limited to, a tax or assessment notice or notice of violation of applicable law or code, the SPE shall, within forty eight (48) hours – excluding weekends and holidays and unless the substance of the notice would dictate a shorter period of time – transmit copies of the notice to the persons identified in [Section 25] hereof. The SPE, District and Trustee acknowledge that ad valorem taxes for certain years remain unpaid on the Property.

(h) Books and Records; Right of Entry. The SPE shall maintain accurate books and records with respect to the Property and the costs and expenses related thereto in the same manner as customarily maintained for similar land holding entities. The SPE will make such books and records available for inspection by a designated representative of the Trustee and District at such times and intervals as each party may reasonably request, all upon such reasonable prior notice to the SPE. The SPE shall also permit the District and the Trustee and their authorized employees, agents, or representatives to enter upon the Property to inspect the Property (and perform services, as appropriate) and will cooperate with the District and its respective representatives and contractors to enable them to perform their functions hereunder. It is expressly agreed that any inspection made pursuant to this section by the District, the Trustee, or their representatives, shall be made solely and exclusively for the protection and benefit of each of them and neither the SPE nor any third party shall be entitled to claim any loss or damage against the District or the Trustee, or their employees, agents or representatives, for failure to properly discharge any duties of the District or the Trustee, and they shall have no duty to make such inspections. The parties agree that such records may be public records under Florida law and agree to comply with all provision of Florida law regarding such records.

(i) Certain Provisions with Respect to Management and Ownership of the Property.

(a) Management and Brokerage Agreement. With the consent of and upon direction by the Trustee, the SPE may engage a manager and broker for the Property (the

"Property Manager") pursuant to a Management and Brokerage Agreement ("Management Agreement") in the form satisfactory to the SPE and the Trustee.

(b) *Prohibited Actions.* The SPE will not, without the prior written consent of the Trustee, take any of the following actions:

i. Incur any liability with regard to a right to payment ("Indebtedness") for borrowed money.

ii. Incur any charge against or interest in the Property to secure payment of a debt or performance of an obligation ("Lien") on the Property (other than any permitted District assessment Liens, as set forth in Section 3 above).

iii. Transfer any of the Property or any proceeds thereof, other than as permitted by this Agreement.

iv. Modify or terminate the Management Agreement, or enter into an agreement with a replacement Property Manager.

v. Engage in any business other than the ownership and operation of the Property.

vi. Merge or dissolve, other than as permitted by this Agreement.

(c) The District remains obligated with respect to the principal, interest and premium, if any, on the Bonds which obligation remains payable solely from the Pledged Revenues, which include the assets of the SPE.

4. OTHER CONDITIONS AND ACKNOWLEDGMENTS.

(a) The Parties agree and acknowledge that the exact location, size, configuration and composition of the Property may change from time-to-time depending on the sale of parcels/lots by the SPE to third parties. The land comprising the Property is attached hereto as Exhibit A.

(b) Notwithstanding anything to the contrary contained in this Agreement, the performance by the SPE of its obligations hereunder with respect to any portion of the Property is expressly subject to, dependent and conditioned upon (i) receipt of a warranty deed(s) or other deed, in a form satisfactory to the Parties, or a Clerk's Certificate of Title, conveying title to such portion of the Property; (ii) receipt of environmental, ownership and encumbrance and/or other reports or documentation deemed necessary and satisfactory to the SPE and Trustee, if any; (iii) the initial and continued funding from the District pursuant to the terms herein; and (iv) no material changes adversely affecting the Property or any portion thereof, environmental or otherwise, that may result in an increase in risk to the SPE [and/or its Sole Member and/or its Manager], as determined in the SPE's sole reasonable discretion.

(c) Nothing contained herein shall alter or amend the rights and responsibilities of the District and Trustee under the Indentures other than as specified herein. The Indentures are hereby affirmed and continue to constitute valid and binding agreements between those two (2) parties.

The parties agree that, upon the SPE taking title to the Property, any Event of Default that may have previously existed under the terms of the Indentures shall have been cured and shall not continue to be in effect. Notwithstanding the foregoing, nothing in this paragraph shall be construed to permit the District to draw funds from the Trust Estate without the consent of the Majority Owners as described in Section 3.

(d) All references in this Agreement to the Trustee agreeing with or agreement to, consenting to or consent to, acknowledging or acknowledgment of or any like action by the Trustee, with regard to anything herein, shall refer to the Trustee as being directed to agree, consent, acknowledge or take like action pursuant to direction from the Majority Owners.

5. RELEASE OF BOARD MEMBERS AND DELEGATED PERSONS. The Trustee, the SPE, and the District recognize that there are times when the District's Board of Supervisors ("Board") may delegate authority to a person or persons to make decisions on behalf of the District and/or the SPE, including, without limitation, the selection of a [Manager for the SPE] ("Delegated Person"). The ability to delegate these decisions is crucial to the operations of the District, the SPE, and the Trustee with regard to the management of the SPE, the Property, and the other activities contemplated by the Parties in this Agreement. In consideration of that, the Trustee, the SPE, and the District hereby release all Board members (past, present, and future), and any Delegated Person, from any and all liability or claims associated with or arising out of decisions made by a Board member or Delegated Person acting on behalf of the District or the SPE. This release is intended to be as broad as possible; however, a Board Member of an individual Delegated Person is not released from claims or liability associated with or arising out of actions or omissions of that individual Delegated Person or Board Member which are outside the scope of his or her authority or which constitute gross negligence, bad faith, malicious purpose, intentional infliction of harm, or which were done in a manner that exhibits wanton or willful disregard of human rights, safety, or property.

6. WARRANTIES AND REPRESENTATIONS OF THE SPE. The SPE represents and warrants (which representations and warranties shall be deemed continuing) to the District and Trustee as follows:

(a) Organization Status; Authority. The SPE is duly organized and is active as a corporation, as applicable, under the laws of the State, and has the full power and authority to enter into this Agreement and consummate the transactions contemplated hereby.

(b) Compliance with Laws. All ownership, operations, and activities, if any, heretofore performed on the Property has been performed in accordance with the terms of this Agreement; SPE shall obtain, and continuously maintain, to the extent necessary, all licenses, permits and approvals required by all local, state and federal agencies regulating such maintenance, sale and use and such licenses, permits and approvals shall remain in good standing; and SPE is and shall remain in compliance with all laws, regulations, ordinances and orders of all governmental authorities.

(c) No Breach of Agreements. The consummation of the transactions hereby contemplated and the performance of the obligations of the SPE under and by virtue of this Agreement will not result in any breach of, or constitute a default under, any lease, bank loan or

credit agreement, or other instrument to which SPE is a party or by which it may be bound or affected.

(d) Pending Litigation. There are no actions, suits or proceedings pending against the SPE, or, circumstances which could lead to such action, suits or proceedings against or affecting the SPE, or involving the validity or enforceability of this Agreement, before or by any governmental authority; and the SPE is not in default with respect to any order, writ, injunction, decree or demand of any court or any governmental authority.

(e) Contracts. SPE has not made any contract or arrangement of any kind the performance of which by the other party thereto would give rise to a lien on the Property, except for the contracts previously disclosed to the District and the Trustee.

(f) Hazardous Waste. SPE shall act in compliance, in all material respects, with all provisions of the federal Water Pollution Control Act, Comprehensive Environmental Response, Compensation and Liability ("Superfund") Act of 1980 and Solid Waste Disposal Act, Florida Statutes, Chapter 376, and other similar federal, state and local statutory schemes imposing liability on SPE relating to the generation, storage, impoundment, disposal, discharge, treatment, release, seepage, emission, transportation or destruction of any sewage, garbage, effluent, asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), toxic, hazardous or radioactive materials, petroleum products, pesticides, smoke, dust, or any other form of pollution as such laws are in effect as of the date of this Agreement and with any rules, regulations and orders issued by any federal, state or local governmental body, agency or authority thereunder and with any orders or judgments of any courts of competent jurisdiction with respect thereto, and no assessment, notice of (primary or secondary) liability or notice of financial responsibility, or the amount thereof, or to impose civil penalties has been received by SPE.

(g) Payments of Taxes and Redemption of Tax Certificates. Provided it has sufficient funding pursuant to Section 3, the SPE has and will assure that all federal, state and local tax returns, if any, that are required to be filed relating to the SPE or the Property are filed timely and that SPE has paid or caused to be paid all taxes as shown on such returns or any ad valorem taxes, dues or assessments, excluding and debt service special assessments imposed by the District until such time as the Property is sold or otherwise transferred to a third party, which are related to the Property, to the extent that such taxes or returns have or are about to become due. The SPE shall also provide for the redemption of any outstanding tax certificates on the Property prior to tax deed sale. Alternatively, the Bondholders and/or the Trustee may provide for redemption of tax certificates in their discretion prior to tax deed sale.

7. INDEPENDENT CONTRACTOR. This Tri-Party Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the SPE is an independent contractor under this Agreement and not the District's employee for all purposes. This Tri-Party Agreement shall not be construed as creating any joint employment relationship between the SPE and the District and the District will not be liable for any obligation incurred by the SPE.

8. SUCCESSORS. The rights and obligations created by this Tri-Party Agreement shall be binding upon and inure to the benefit of SPE and District and Trustee, their heirs, executors, receivers, trustees, successors and assigns.

9. CONSTRUCTION OF TERMS. Whenever used the singular number shall include the plural, the plural the singular; the use of any gender shall include all genders, as the context requires; and the disjunctive shall be construed as the conjunctive, the conjunctive as the disjunctive, as the context requires.

10. ENTIRE AGREEMENT. This Tri-Party Agreement contains the entire understanding between District and Developer and each agrees that no representation was made by or on behalf of the other that is not contained in this Tri-Party Agreement and that in entering into this Tri-Party Agreement neither party relied upon any representation not herein contained.

11. CAPTIONS. The captions for each section of this Tri-Party Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope of intent of this Tri-Party Agreement, or the intent of any provision hereof.

12. SEVERABILITY. If any provision of this Tri-Party Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder or substantially increase the burden of any party hereto, shall be held to be invalid or unenforceable to any extent, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Tri-Party Agreement.

13. EXECUTION OF DOCUMENTS. Each party covenants and agrees that it will at any time and from time to time do such acts and execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such documents reasonably requested by the parties necessary to carry out fully and effectuate the transaction herein contemplated and to convey good and marketable title for all conveyances subject to this Tri-Party Agreement.

14. COUNTERPARTS. This Tri-Party Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute, but one and the same instrument. Signature and acknowledgment pages, if any, may be executed by facsimile, which shall be good as an original, and may be detached from the counterparts and attached to a single copy of this document to physically form one document.

15. AUTHORIZATION. The execution of this Tri-Party Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the requirements of law, and each party has full power and authority to comply with the terms and provisions of this Agreement.

16. AMENDMENTS AND WAIVERS. This Tri-Party Agreement may not be amended, modified, altered, or changed in any respect whatsoever except by a further agreement in writing duly executed by the parties hereto. No failure by District, SPE or Trustee to insist upon the strict performance of any covenant, duty, agreement, or condition of this Tri-Party Agreement or to exercise any right or remedy upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term, or condition. Any party hereto, by

notice, may but shall be under no obligation to waive any of its rights or any conditions to its obligations hereunder. No waiver shall affect or alter this Tri-Party Agreement but each and every covenant, agreement, term, and condition of this Tri-Party Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.

17. APPLICABLE LAW. This Tri-Party Agreement is made and shall be construed under the laws of the State of Florida.

18. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE. A default by any party to this Agreement shall entitle the others to all remedies available at law or in equity, which may include, but not be limited to, the right of actual damages and/or specific performance. The non-defaulting parties shall be solely responsible for enforcing their respective rights under this Agreement against any interfering third party. Nothing contained in this Agreement shall limit or impair a party's right to protect its rights from interference by a third party to this Agreement.

19. TERM. This Agreement shall take effect upon execution and delivery by the Parties, shall remain in effect for so long as the SPE owns or holds the Property or any portion thereof or any proceeds thereof, and may be terminated only upon the mutual written agreement of the Parties hereto or upon permitted dissolution of the SPE as set forth herein.

20. SPECIFIC PERFORMANCE. In the event of the District's, the SPE's or the Trustee's default under this Tri-Party Agreement, the parties agree as to the absence of adequate remedies at law; therefore, all parties shall have, in addition to such rights and remedies as provided by general application of law, the right to obtain specific performance of the District's, the SPE's or the Trustee's obligations hereunder.

21. CONVEYANCE TO THE DISTRICT; DISSOLUTION OF CORPORATION. The SPE agrees to own, maintain, sell and/or dispose of the Property for the benefit of and on behalf of, the District. In the event funding is not provided by the Trustee as provided in Section 3 herein the SPE may convey, and the District may accept, the Property for ownership and maintenance. Any conveyance of the Property to the District shall be subject to the preservation or satisfaction of any other District liens that may be extinguished as a result of the District's ownership of the Property. Immediately upon conveying the Property to the District, or as otherwise mutually agreed upon by the Parties, the SPE shall dissolve. Upon dissolution, all records shall be transferred to the District for maintenance and storage

22. REMEDIES. A default by any party under the Tri-Party Agreement shall entitle the other parties to all remedies available at law or in equity, which shall include but not be limited to the right of damages, injunctive relief and specific performance and specifically include the ability of the District to enforce any and all payment obligations under this Tri-Party Agreement through the imposition and enforcement of a contractual or other lien on property owned by SPE.

23. COSTS AND FEES. In the event that any party is required to enforce this Tri-Party Agreement by court proceedings or otherwise, then the parties agree that the prevailing party shall be entitled to recover from the other all costs incurred, including reasonable attorney's fees and costs for trial, alternate dispute resolution, or appellate proceedings.

24. NO THIRD-PARTY BENEFICIARIES. This Tri-Party Agreement is solely for the benefit of the formal parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto. Nothing in this Tri-Party Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Tri-Party Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.

25. NOTICES. All notices, requests, consents and other communications under this Agreement ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

(a) If to the District: Indigo Community Development District
c/o [TO COME]

With copies to: Katie Buchanan, Esq.
Kutak Rock LLP
[Address]

(b) If to the Trustee: U.S. Bank Trust Company, National Association
[TO COME]

With copies to: Warren S. Bloom, Esq.
Greenberg Traurig, LLP
450 South Orange Avenue, Suite 650
Orlando, FL 32801

(c) If to the SPE: [TO COME]

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for each party may deliver Notice on behalf of the respective party he/she represents. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

26. NOTIFICATION TO THE DISTRICT AND TRUSTEE. Each party shall promptly notify the other parties of any of the following which may come to the attention of a party with respect to this Agreement:

- (a) Any failure of the SPE to perform any material covenant or obligation, applicable to it, under this Agreement.
- (b) Abandonment of the Property.
- (c) Any lack of repair or deterioration or waste suffered or committed in respect to the Property.
- (d) Any non-payment of invoices concerning the Property or for taxes or insurance.
- (e) Any other matter which would adversely or materially affect or result in the diminution of value of the Property.

27. ARM'S LENGTH TRANSACTION. This Tri-Party Agreement has been negotiated fully between the parties in an arm's length transaction. The parties participated fully in the preparation of this Tri-Party Agreement with the assistance of their respective counsel. In the case of a dispute concerning the interpretation of any provision of this Tri-Party Agreement, the parties are deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against any party.

28. ASSIGNMENT. This Tri-Party Agreement, or any monies to become due hereunder, may be assigned by SPE, provided that SPE first obtains the prior written approval of the District and the Trustee, which approval shall not unreasonably be withheld.

29. PUBLIC RECORDS. The Parties understand and agree that all documents of any kind provided to the District or the SPE, including SPE records made in connection with this Agreement, may be public records and treated as such in accordance with Florida law.

30. LIMITATIONS ON GOVERNMENTAL LIABILITY. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

FURTHER ASSURANCES. At any and all times, SPE and District shall, so far as either may be authorized by law, make, do, execute, acknowledge and deliver, all and every other further acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable, as determined by the District, for the better assuring, conveying, granting, assigning and confirming, as applicable, any and all rights or interests in the Improvements which are intended or required to be acquired by or conveyed to or by the District as contemplated by the Indenture and this Tri-Party Agreement, including the conveyance, assignment or transfer to other government agencies of such portions of, or interests in, the Improvements as authorized, directed or required by applicable laws or regulations, conditions of development orders, or agreements entered into by the District.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties execute this Tri-Party Agreement and further agree that it shall take effect as of the Effective Date first above written.

Attest:

**INDIGO COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

By: _____
Chairman, Board of Supervisors

___ day of _____, 2025

STATE OF FLORIDA }
COUNTY OF VOLUSIA }

The foregoing instrument was acknowledged before me this ___ day of _____, 2025, by _____, as Chairman of the Board of Supervisors for INDIGO COMMUNITY DEVELOPMENT DISTRICT, who is personally known and/or produced _____ as identification and who being duly sworn, deposes and says that the aforementioned is true and correct to the best of his knowledge.

STATE OF FLORIDA }
COUNTY OF VOLUSIA }

Notary Public

Print Name

Commission Expires:

The foregoing instrument was acknowledged before me this ___ day of _____, 2025, by _____, as Secretary/Assistant Secretary of the Board of Supervisors for INDIGO COMMUNITY DEVELOPMENT DISTRICT, who is personally known and/or produced _____ as identification and who being duly sworn, deposes and says that the aforementioned is true and correct to the best of his knowledge.

Notary Public

Print Name

Commission Expires:

WITNESSES:

Print Name

Print Name

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION**, solely in its
capacity as Trustee under the Indenture

Based upon the consent and direction of the
bondholders, the Trustee does hereby approve
and enter into this Agreement

By: _____

Print: _____

Title: _____

___ day of _____, 2025

STATE OF [_____] }
COUNTY OF _____ }

The foregoing instrument was acknowledged before me this ___ day of
_____, 2025, by _____, as
_____ of U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, who is
personally known and/or produced _____ as identification and
who being duly sworn, deposes and says that the aforementioned is true and correct to the best of
his knowledge.

DRAFT

Notary Public

Print Name

Commission Expires:

EXHIBIT A

Description of the Property

- SW-26 – Parcel #5221-00-00-0090
- SW13A – Parcel #5232-00-00-0050

DRAFT

FOURTH ORDER OF BUSINESS

RESOLUTION 2025-02

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF
INDIGO COMMUNITY DEVELOPMENT DISTRICT
DESIGNATING THE OFFICERS OF THE DISTRICT, AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Indigo Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the County of Volusia, Florida; and

WHEREAS, the Board of Supervisors of the District desires to designate the Officers of the District.

NOW, THEREFORE, be it resolved by the Board of Supervisors of Indigo Community Development District:

- SECTION 1.** Mark McCommon is appointed Chairman.
- SECTION 2.** Kevin Kilian is appointed Vice Chairman.
- SECTION 3.** Jeremy LeBrun is appointed Secretary and Treasurer.
Rob Byrne is appointed Assistant Secretary.
Ken Workowski is appointed Assistant Secretary.
Ronald Brown is appointed Assistant Secretary.
Jillian Burns, George Flint & Darrin Mosing is appointed Assistant Treasurer.
Jillian Burns, George Flint & Darrin Mosing is appointed Assistant Secretary.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED THIS 7TH DAY OF MARCH, 2025.

ATTEST

**INDIGO COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairman/Vice Chairman