

**ORDINANCE NO. 2023- 27**

**AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA GRANTING THE PETITION OF TLC TRINITY GARDENS, LLC, FOR THE ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING THE KEPLER ROAD COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR NAME, POWERS, AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT, A SAVINGS PROVISION, CONFLICTS, SEVERABILITY, NON-CODIFICATION, AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING AND AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Legislature enacted the Uniform Community Development Act of 1980, Chapter 190, *Florida Statutes*, as amended, to provide an alternative method to finance and manage basic services for community development; and

**WHEREAS**, TLC Trinity Gardens, LLC ("**Petitioner**"), as the owner of one hundred percent (100%) of the real property within and consenting to be included in the proposed District (hereinafter defined), has filed a Petition to Establish Kepler Road Community Development District ("**Petition**") with the City Commission of the City of DeLand, Florida ("**City Commission**") pursuant to Section 190.005(2)(e), *Florida Statutes*, to adopt an ordinance establishing the Kepler Road Community Development District ("**District**") pursuant to Chapter 190, *Florida Statutes* (also referred to herein as the "**Act**"); and

**WHEREAS**, a duly noticed public hearing has been conducted by the City Commission in accordance with the requirements and procedures of Sections 190.005(2)(b) and 190.005(2)(e), *Florida Statutes*, and any applicable requirements and procedures of the *City Charter* and *Code of Ordinances*, at which all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition; and

**WHEREAS**, the City Commission has considered the provisions of Resolution 2020-58 and specifically determined that the proposed district is consistent with the said Resolution; and

**WHEREAS**, the City Commission has determined that the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the Petition, thereby providing a solution to the City of DeLand's ("**City**") management and financing needs for a delivery of capital infrastructure therein without overburdening the City and its taxpayers, based on the information provided in the Petition and/or the Act including, but not limited to, the following representations:

(a) That the District's stormwater system will tie into the City's stormwater system, consistent with applicable laws, regulations, and City design standards, and the District will pay all City stormwater fees; and

(b) That the City will provide water, sewer, reuse water, stormwater, and solid waste utility services to properties within the District; and

(c) That the City will retain construction permitting and inspection responsibilities regarding all improvements within the District's boundaries; and

(d) That all other powers and duties of the City exercised by the City throughout the corporate limits of the City shall be exercised within the District's boundaries unless otherwise specifically provided for herein; and

**WHEREAS**, the Commission finds that the statements contained in the Petition are true and correct; and

**WHEREAS**, the creation of the District is not inconsistent with any applicable element or portion of the State Comprehensive Plan as set forth in Chapter 187, *Florida Statutes*, or the City's Comprehensive Plan; and

**WHEREAS**, 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 development; and

**WHEREAS**, the creation of the District is the best alternative available for delivering community development facilities and services to the area that will be served by the District; and

**WHEREAS**, the proposed facilities and services to be provided by the District will be compatible with the capacity and uses of existing local and regional community development facilities and services; and

**WHEREAS**, the area that will be served by the District is amenable to separate special district government; and

**WHEREAS**, pursuant to the information as stated above, the City Commission has decided to grant the Petition and upon the District's establishment, the City Commission finds that the District shall have those general and special powers authorized under the Act, including specifically Sections 190.011 and 190.012(2)(a), *Florida Statutes*, as further set forth herein.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA, AS FOLLOWS:**

**SECTION 1. LEGISLATIVE FINDINGS AND INTENT.**

(a) The City Commission hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance and the City staff report relating to this Ordinance.

(b) The City has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

**SECTION 2. GRANTING OF PETITION; CREATION AND NAME OF DISTRICT.**

(a) The Petition to Establish the Kepler Road Community Development District over the real property described in Exhibit 2 of the Petition, which Petition is on file at the Office of the City Clerk of the City of DeLand, is hereby granted.

(b) There is hereby established a community development district situated entirely within the incorporated limits of the City, which District shall be known as the “Kepler Road Community Development District.”

(c) The Kepler Road Community Development District is created for the purposes set forth in Chapter 190, *Florida Statutes*, as amended.

**SECTION 3. BOUNDARIES OF THE DISTRICT.** The external boundaries of the District are described in **Exhibit A** attached hereto and incorporated herein by reference, the overall boundaries encompassing 183.926 acres, more or less. There are no parcels within the external boundaries of the District which are to be excluded from the District.

**SECTION 4. INITIAL BOARD OF SUPERVISORS OF THE DISTRICT.** The initial members of the Board of Supervisors of the District, all of whom are residents of the State of Florida (“**State**”) and citizens of the United States of America, shall be as follows:

Name: Anthony Iorio  
Address: 605 Commonwealth Avenue, Orlando, Florida 32803

Name: Jason Lonas  
Address: 605 Commonwealth Avenue, Orlando, Florida 32803

Name: Doug Beasley  
Address: 605 Commonwealth Avenue, Orlando, Florida 32803

Name: Duane “Rocky” Owen  
Address: 5585 Alligator Lake Road, St. Cloud, Florida 34772

Name: Thomas Franklin, Sr.  
Address: 1818 Admiral Court, Kissimmee, Florida 34744

**SECTION 5. CHARTER AND POWERS OF THE DISTRICT.**

(a) The powers and functions of the District are described in Chapter 190, *Florida Statutes*, as may be amended from time to time. The Charter of the District shall be as set forth in the Act, as created by general law.

(b) Based on the findings made, and actions taken herein, the City Commission hereby further consents to the District's exercise of special powers described in 190.012(2)(a), *Florida Statutes*.

**SECTION 6. BONDS ISSUED BY THE DISTRICT; EFFECT OF BONDS; NOT CITY PLEDGE.**

(a) Bonds issued by the District shall be validated as provided for in the Act.

(b) No bond, debt or other obligation of the District, nor any default thereon, shall constitute a debt or obligation of the City.

(c) By enacting this Ordinance, the City shall not be deemed in any respect, under any theory of law whatsoever, to have pledged the ad valorem taxation powers of the City or any other taxing power of the City, directly or indirectly, for the benefit of the District.

**SECTION 7. SAVINGS.** The prior actions of the City relating to the planning and development matters and actions of the City, as well as any and all related matters, are hereby ratified and affirmed.

**SECTION 8. CONFLICTS.** All Ordinances or parts of Ordinances and other actions of the City Commission in conflict with this Ordinance are hereby repealed.

**SECTION 9. SEVERABILITY.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**SECTION 10. NON-CODIFICATION; CORRECTION OF SCRIVENER'S ERRORS.**

(a) The provisions of this Ordinance shall not become and be made a part of the *Code of Ordinances of the City of DeLand*.

(b) City Clerk, in conjunction with the City Attorney, may make corrections to the provisions of this Ordinance relative to Scrivener's errors of whatever type or nature that do not affect the substantial provisions of this Ordinance.

[SIGNATURE PAGE TO FOLLOW]

**SECTION 11. EFFECTIVE DATE.**

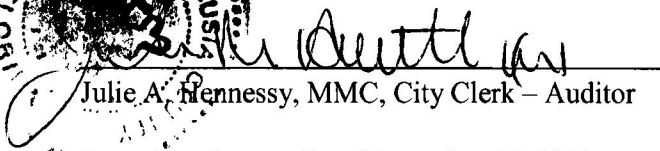
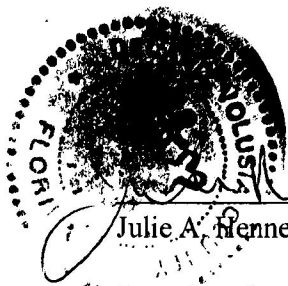
- (a) This ordinance shall take effect immediately upon adoption.
- (b) The effect of this Ordinance shall lapse if an interlocal agreement between the City and the District is not entered and recorded in the Official Records of Volusia County (Land Records) within 60 days of the enactment of this Ordinance.

**PASSED AND DULY ADOPTED** this 20<sup>th</sup> day of November, 2023.

**CITY COMMISSION OF THE CITY OF DELAND**



Christopher M. Cloudman  
Mayor - Commissioner



Julie A. Hennessy, MMC, City Clerk – Auditor

Passed on first reading: November 06, 2023.  
Adopted on second reading: November 20, 2023,

**APPROVED AS TO FORM AND LEGALITY:**



Darren J. Elkind, City Attorney

**EXHIBIT A:**  
**Legal Description of the**  
**Kepler Road Community Development District**

**PARCEL 1:**

The North 1/2 of the Southeast 1/4 of the Southwest 1/4, also the Northeast 1/4 of the Southwest 1/4, less and except the Northeast 1/4 thereof, also the South 1/2 of the Southeast 1/4, less 200 foot Road Right of Way for the West Volusia Beltline and less that portion of the Southeast 1/4 of the Southeast 1/4, lying East of the 200 foot West Volusia Beltline Road Right of Way, and less the Volusia County Water Retention Area and the Florida Power Company Substation Site and Access Parcel, all lying and being in Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

**PARCEL 2:**

The South 1/2 of the Northwest 1/4 of the Southeast 1/4, and the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

**PARCEL 3:**

The North 1/2 of the Southwest 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida.

**PARCEL 4:**

The South 1/2 of the Southeast 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida, less that portion deeded to the City of Deland in Special Warranty Deed recorded May 4, 2020 in Official Records Book 7848, Page 2721, Public Records of Volusia County, Florida.

**PARCEL 5:**

The South 1/2 of the Southwest 1/4 of the Southwest 1/4, Section 14, Township 17 South, Range 30 East, Volusia County, Florida, less Road Right of Way and less that portion deeded to the City of Deland in Special Warranty Deed recorded May 4, 2020 in Official Records Book 7848, Page 2721, Public Records of Volusia County, Florida.

Being more particularly described as follows:

BEGIN at the Southwest corner of the Southeast 1/4 of Section 14, Township 17 South, Range 30 East Volusia County, Florida, said point being the beginning of a non-tangent curve concave Northerly and having a radius of 1275.00 feet: thence from a tangent bearing of South 89 degrees 32 minutes 15 seconds West run Westerly 207.55 feet along the arc of said curve through a central angle of 09 degrees 19 minutes 36 seconds to the end of said curve; thence North 81 degrees 09 minutes 12 seconds West 637.04 feet to the beginning of a non-tangent curve concave Southerly and having a radius of 3050.00 feet; thence from a tangent bearing of North 81 degrees 08 minutes 08 seconds West run Westerly 506.97 feet along the arc of said curve through a central angle of

09 degrees 31 minutes 25 seconds to the end of said curve; thence South 89 degrees 19 minutes 34 seconds West 1211.37 feet to a point on the East right of way line of South Blue Lake Avenue per Deed Book 306, Page 251 of the Public Records of Volusia County, Florida and Volusia County right of way map Project 1358; thence North 01 degrees 03 minutes 38 seconds West 481.81 feet along said right of way line to a point on the North boundary of the South 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 14; thence South 89 degrees 06 minutes 10 seconds West 100.00 feet along said right of way line and said North boundary to a point on the West boundary of said Southwest 1/4 of said Section 14; thence North 01 degrees 03 minutes 38 seconds West 646.42 feet along said right of way line and said West boundary to the Northwest corner of said Southwest 1/4 of the Southwest 1/4; thence North 88 degrees 52 minutes 47 seconds East 1326.35 feet along said right of way line and the North boundary of said Southwest 1/4 of the Southwest 1/4 to the Southwest corner of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 00 degrees 59 minutes 38 seconds West 1303.17 feet along the West boundary of the Northeast 1/4 of the Southwest 1/4 of said Section 14 to the Northwest corner of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 88 degrees 26 minutes 03 seconds East 663.96 feet along the North boundary of said Southwest 1/4 to the Northeast corner of the Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence South 00 degrees 57 minutes 39 seconds East 654.17 feet along the East boundary of said Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 to the Southeast corner of said Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4; thence North 88 degrees 39 minutes 25 seconds East 663.56 feet along the North boundary of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14 to the Northeast corner of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 14; thence North 88 degrees 42 minutes 33 seconds East 667.07 feet along the North boundary of the Southwest 1/4 of the Northwest 1/4 of the Southeast 1/4 of said Section 14 to the Southwest corner of the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 of said Section 14; thence North 00 degrees 56 minutes 00 seconds West 659.89 feet along the West boundary of said Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 to the Northwest corner of said Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4; thence North 88 degrees 26 minutes 21 seconds East 667.04 feet along said North boundary of said Southeast 1/4 to the Northeast corner of the East 1/2 of said Northwest 1/4 of the Southeast 1/4; thence South 00 degrees 56 minutes 16 seconds East 1326.08 feet along the East boundary of said East 1/2 of the Northwest 1/4 of the Southeast 1/4 to the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of said Section 14; thence North 88 degrees 58 minutes 45 seconds East 592.01 feet along the North boundary of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 14 to a point on the West right of way line of West Volusia Beltline (Kepler Avenue) as recorded in Official Records Book 7707, Page 4683 of the Public Records of Volusia County, Florida, said point being the beginning of a non-tangent curve concave Westerly and having a radius of 3900.00 feet: thence from a tangent bearing of South 00 degrees 13 minutes 16 seconds East run Southerly 67.02 feet along the arc of said curve and said West right of way line through a central angle of 00 degrees 59 minutes 05 seconds to the end of said curve; thence South 00 degrees 13 minutes 16 seconds East 893.07 feet along said right of way line to the Northeast corner of that certain parcel of land described and recorded in Official Records Book 3897, Page 2485 of the Public Records of Volusia County, Florida; thence South 89 degrees 46 minutes 43 seconds West 300.00 feet along the North

boundary of said lands to the Northwest corner of said lands; ; thence South 00 degrees 13 minutes 16 seconds East 307.91 feet along the West boundary of said lands to the Southwest corner of said lands; thence North 89 degrees 31 minutes 01 seconds East 300.00 feet along the South boundary of said lands to the Southeast corner of said lands and a point on the aforesaid West right of way line; thence South 00 degrees 13 minutes 16 seconds East 64.56 feet along said right of way line; thence South 00 degrees 14 minutes 26 seconds East 0.44 feet along said right of way line to a point on the South boundary of said Southeast 1/4 of Section 14; thence South 89 degrees 31 minutes 09 seconds West 1691.41 feet along said South boundary to the Southeast corner of that certain parcel of land described and Recorded in Official Records Book 4317, Page 2773 of the Public Records of Volusia County, Florida; thence along the boundary of said parcel of land the following 7 courses and distances: thence North 00 degrees 54 minutes 31 seconds West 373.75 feet; thence North 89 degrees 05 minutes 29 seconds East 107.50 feet; thence North 00 degrees 54 minutes 31 seconds West 335.00 feet; thence South 89 degrees 05 minutes 29 seconds West 290.00 feet; thence South 00 degrees 54 minutes 31 seconds East 335.00 feet; thence North 89 degrees 05 minutes 29 seconds East 107.50 feet; thence South 00 degrees 54 minutes 31 seconds East 373.19 feet to a point on said South boundary of the Southeast 1/4; thence South 89 degrees 31 minutes 09 seconds West 141.01 feet along said South boundary to the Point of Beginning.

CONTAINING: 183.926 acres, more or less.