

**INTERLOCAL AGREEMENT
(FOR THE CRESSWIND DELAND COMMUNITY DEVELOPMENT DISTRICT)**

THIS INTERLOCAL AGREEMENT (the “Interlocal Agreement”), dated as of this 4th day of December, 2023, is entered into by and between the City of DeLand, Florida (the “City”), a municipal corporation of the State of Florida and the Cresswind DeLand Community Development District (the “District”), a community development district created pursuant to the provisions of Chapter 190, *Florida Statutes*. The addresses of the parties are set forth below.

RECITALS:

WHEREAS, on November 6, 2023, and November 20, 2023, the City Commission enacted Ordinance Number 2023-____ (the “Ordinance”) establishing the Cresswind DeLand Community Development District (the “District”) subject to this Interlocal Agreement being entered by the parties within 60 days of the enactment of the Ordinance; and

WHEREAS, the District consists of that real property wholly within the boundaries described in the Ordinance (the “Property”); and

WHEREAS, the District is an independent special district and a local unit of special-purpose government which is created pursuant to Chapter 190, *Florida Statutes*, and is limited to the performance of those specialized functions authorized by to Chapter 190, *Florida Statutes*, and the Ordinance; and

WHEREAS, the governing body of the District is created, organized, constituted and authorized to function specifically as prescribed in Chapter 190, *Florida Statutes*, and the Ordinance for the delivery of urban community development services; and

WHEREAS, pursuant to Chapter 190, *Florida Statutes*, the District is presently authorized to construct, acquire, and maintain certain infrastructure improvements and services for which the District may impose, levy and collect non-ad valorem special assessments on land within the boundaries of the District; and

WHEREAS, in accordance with Chapter 190, *Florida Statutes*, the City has expressed in the Ordinance its consent to the District Board (as defined herein) having the additional powers described by Section 190.012(2)(a) and (d), *Florida Statutes*; and

WHEREAS, in order to effectuate the terms of the Ordinance, this Interlocal Agreement between the City and the District is entered into to further define the responsibility of the District to (i) provide for certain enhanced disclosure regarding the establishment of the District and the existence of liens and special assessments on lands contained within the District’s boundaries, (ii) provide that annual notice be given by the District to all landowners within the District regarding the date, time and place of the scheduled monthly meetings of the Board of Supervisors for its ensuing fiscal year and (iii) provide that annual notice be given by the District to all landowners within the District regarding the date, time and place of its budget hearing; and

WHEREAS, this Interlocal Agreement has been approved by the District Board; and

WHEREAS, it is in the mutual interest of the City and the District to establish intergovernmental relations that encourage, promote and improve the coordination, overall effectiveness and efficiency of governmental activities and services within the boundaries of the District; and

WHEREAS, Section 163.01, *Florida Statutes*, known as the “*Florida Interlocal Cooperation Act of 1969*”, permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities, and

WHEREAS, the City and the District find this Interlocal Agreement to be necessary, proper and convenient to the exercise of their powers, duties and purposes authorized by law; and

WHEREAS, the City and the District desire to exercise jointly their common powers and authority concerning the cost effective financing of the acquisition and construction of the infrastructure, public improvements and community facilities; the avoidance of inefficiencies caused by the unnecessary duplication of services and facilities; and the clarification of responsibilities, obligations, duties, powers, and liabilities of each of the governmental bodies.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the District agree as follows:

ARTICLE I – INTRODUCTION

Section 1.01. Authority. This Interlocal Agreement is entered into pursuant to the authority set forth in the *Florida Interlocal Cooperation Act of 1969* and Chapter 190, *Florida Statutes*, and other applicable controlling provisions of law.

Section 1.02. Recitals and Exhibits. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Interlocal Agreement. All exhibits identified herein are hereby incorporated by reference to the same extent as if fully set forth herein.

Section 1.03. Authority to Contract. The execution of this Interlocal Agreement has been duly authorized by the appropriate body or officials of the City and the District, each party has complied with all applicable requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument. Further, by execution of this Interlocal Agreement, the District ratifies and affirms, as true and correct, all statements made in the Petition filed with the City seeking the establishment of the District.

Section 1.04. Definitions.

(a). The following terms when used in capitalized form herein shall have the respective meaning indicated below unless the context shall clearly indicate otherwise:

(1). “Dedicate” or any derivative use of the word that may be used shall mean conveyance of real property in order to vest title to real property in a manner satisfactory to the City Attorney.

(2). “District Board” means the initial Board of Supervisors and all subsequent forms of the Board of Supervisors for the District.

(3). “Capital Assessments” means and refers to the terms “Benefit Special Assessments” and “Special Assessments”, as set forth and described in Subsection 190.021(2), *Florida Statutes*, and Section 190.022, *Florida Statutes*, respectively, levied for the purpose of repaying bonded indebtedness (and related expenses) to finance District improvements as implemented in accordance with controlling law, and expressly excludes special assessments levied for the purpose of operation and maintenance.

(4). “Parcel” means a portion of the Property such as a lot, parcel, tract or any other quantity of land capable of being separately conveyed and having a separate tax parcel identification number assigned by the Property Appraiser of Volusia County or Tax Collector of Volusia County.

(b). Additionally, the definitions of Section 334.03, *Florida Statutes*, and the definitions of the *DeLand City Code* shall be applicable in the interpretation of this Interlocal Agreement.

ARTICLE II - DISTRICT PUBLIC INFRASTRUCTURE AND FACILITY OBLIGATIONS

Section 2.01. District Public Infrastructure and Facility Obligations.

(a). Without the City releasing any obligation of any developer with regard to the Property within the District or the obligations of the District in any manner whatsoever and with the City retaining all powers and control as to all such developers under all development orders and permits, as well as any general law, the District shall ensure that all public infrastructure and facilities required in accordance with the Planned Development Agreement approved by the City on September 23, 2020 pursuant to Ordinance 2020-19 (the “Planned Development Agreement”) and which is permitted to be funded by the CDD pursuant to the Ordinance and this Interlocal Agreement, is funded and provided for when permitted by applicable law and as detailed in the Petition.

(b). Importantly, the District will help safeguard and protect the environmentally sensitive conservation, shoreline and stormwater system that is a critical part of the Planned Development Agreement. The District, as a governmental entity, will have property rights authorizing the District to preserve at its sole cost and expense the conservation areas, shoreline and stormwater system as public lands. In doing so, the District will provide a more secure funding entity (due to its ability to collect assessments on the tax roll), and a more transparent one (due to the requirements that the CDD publicly bid contracts, hold open meetings, and maintain public records). The District will also be empowered to promulgate and enforce rules to ensure that the conditions of the Planned Development Agreement are met with respect to these lands.

Improvement Plan. The following elements of infrastructure and facilities shall be provided by the District at its sole cost, or shall be caused by the District to be provided, without cost to the City: stormwater management improvements, conservation areas, sanitary sewer collection systems, water distribution systems, reclaimed water distribution systems, landscaping/hardscaping/irrigation, offsite improvements (e.g., offsite reclaim and other utility lines as well as median closures and turn lanes to the extent required for the development of the project), and all professional work product associated with these improvements. The District will construct and/or acquire all sanitary sewer collection systems, water distribution systems, and offsite reclaim systems and transfer those to the City for ownership and operation, and will additionally construct and/or acquire all offsite improvements and transfer those to the City or County as applicable for ownership and operation.

The following chart shows the District's anticipated ownership and operations responsibilities:

Improvement	Operation and Maintenance Entity
Stormwater & Conservation Areas	District
Water & Sanitary Sewer Systems	City of DeLand
Reclaimed Water System	District
Irrigation System	District
Perimeter Landscaping/Hardscaping	District
Offsite Roads/Turn Lanes	State / County / City
Offsite Reclaim	City of DeLand

*NOTE: Except as stated above, all other community improvements shall be owned by a homeowners' association, including but not limited to the gatehouse, internal roads, and all recreational improvements, such as the community clubhouse, walking trail, dock, and any other amenities within the community.

Environmental Considerations. The project shall be constructed and maintained in compliance with the required environmental considerations in Section J of the Planned Development Agreement including, but not limited to, compliance with City environmental standards as well as compliance with tree preservation, analysis, and mitigation. Among other things, the requirements include:

- All landscaping shall be installed and maintained in a manner consistent with Florida-Friendly planting principles,
- Reclaimed water shall only be used for irrigation in the area of the Planned Development located east of the western boundary of the powerline easement,
- Tree removal and replacement shall be done at the ratios identified in City Code Section 33-57, as amended. Further, removal of trees from the shore of Lake Winnemissett shall be addressed as set forth in Section R.2. of the Planned Development Agreement.
- Except as expressly allowed by the Planned Development Agreement, no commercial, residential, agricultural, industrial or other activity or development shall be undertaken or allowed on the shore of Lake Winnemissett.

Stormwater Drainage. Provision for stormwater retention shall be in accordance with Section L of the Planned Development Agreement. The District shall finance, own, operate and maintain the stormwater system.

Buffers. Among other improvements, the project will include a 50-foot natural buffer along all project boundaries and include enhanced landscape features with an extension pedestrian system leading to neighborhood parks and green spaces, common areas and amenities all within a short distance from the residences. The buffer improvements shall be maintained in accordance with Section J. of the Planned Development Agreement by the District.

Development Consistent with Planned Development. Without limiting the foregoing or any other legal obligation in any way, at a minimum, the project shall be constructed and maintained in compliance with, and adherence to, the standards of development set forth in the Planned Development Agreement, which provides, among other things, for extensive improvements and services for the benefit of the public.

(c). The District irrevocably agrees that the commitments made herein are not subject to the provisions of Section 70.45, *Florida Statutes*, relating to governmental exactions, or any similar law or legal theory of a similar nature in any respect. Further, the District agrees that the City is not responsible for the construction or creation of public facilities or capacity in order to facilitate the development of the Property, except as otherwise agreed to or provided in the Planned Development Agreement. The District agrees to the granting of any and all utility easements to the City which the City deems necessary to serve the Property with public utilities and to provide for interconnectivity of amenities and facilities as may be determined to be in the public interest by the City. In addition to the above declarations relative to the dedication of easements to the City, the District agrees that the City has shown an essential nexus between a legitimate City interest and the conditions imposed herein. Further, the District agrees that the City has established that all proposed conditions are roughly proportional to the impacts of the development upon the public problems addressed herein based upon an individualized determination that the required dedication/commitment is related in both nature and extent to the impacts of the proposed development.

ARTICLE III - ENHANCED DISCLOSURE AND NOTICE

Section 3.01. Enhanced Disclosure of District and Assessments.

(a). In addition to the statutory requirements for disclosure set forth in Sections 190.008, 190.009, 190.048 and 190.0485, *Florida Statutes*, the District hereby agrees to have executed and filed in the Official Records of Volusia County a "Notice of Lien," (or similar notice) at the time any Capital Assessments are placed on Parcels within the District. Such notices are intended to inform potential future landowners of the Property of both the establishment of the District and the existence of liens and special assessments on lands contained within the District, which liens shall run with the land.

(b). The Notice of Lien referred to in Section 3.01(a) above supplements the following notices that shall also be placed on the Property in the Official Records of Volusia County: (i) the Notice of Establishment of the District, the (ii) Disclosure of Public Financing, and (iii) this Interlocal Agreement.

Section 3.02. Notice of District Meeting Schedule. In addition to the statutory notice requirement set forth in Subsection 190.008(2)(a), *Florida Statutes*, the District hereby agrees to publish in a newspaper that meets the requirements of Section 189.015, *Florida Statutes*, once a year a notice of the District's adopted schedule of meetings of its Board of Supervisors for the ensuing fiscal year ("District Meeting Schedule"), which notice shall designate the date, time and place of each of the scheduled meetings. The described District Meeting Schedule will also be provided to the City by mail to the addresses for notices set forth herein as well as posting the meeting schedule online on the District's website as noted herein.

Section 3.03. District Website Information. The District shall establish a website and provide information as required by Subsection 189.015(1), and Sections 189.016 and 189.069, *Florida Statutes*, and any other pertinent controlling law.

Section 3.04. Notice of Annual Budget Hearing. In addition to the statutory notice requirement set forth in Subsection 190.008(2)(a), *Florida Statutes*, upon request by the Volusia County Property Appraiser ("Property Appraiser") and/or Volusia County Tax Collector ("Tax Collector"), the District hereby agrees to work in cooperation with the Property Appraiser and Tax Collector, as those offices may require, to have notice of the date, time and places of the annual budget hearing placed on the TRIM Notice sent to each landowner in the District. In the event of any increase to assessments, each affected landowner will get notice of the proposed increase and date, place and time of public hearing to consider such increase as provided under Florida Statute. The District shall also post budget information on its website, as noted in Section 3.03 above.

ARTICLE IV - NO ASSESSMENT OF CITY PROPERTY

Section 4.01. Exemption of City Property. The District shall not impose, levy, certify or otherwise seek to encumber or assess City owned property with regard to special assessments, non-ad valorem assessments, maintenance assessments or taxes, fees, or charges of any type or nature whatsoever. This exemption applies to property which is owned at the present time or becomes owned by the City at a later time and regardless of, or to, which use or uses the property is put.

ARTICLE V - CAPITAL ASSESSMENTS

Section 5.01. Imposition of Capital Assessments. The District may impose Capital Assessments upon Parcels located within the Property, as defined, for the purpose of repaying bonded indebtedness (and related expenses) to finance the improvements that are being made within the property by the District as implemented in accordance with controlling law.

Section 5.02. Budget. The City has received data and other evidence relative to the improvements to be made within the District's Property as set forth herein and, to the extent that the City can reasonably determine based upon an analysis of the information received, but without any obligation to ensure that all data and evidence is true and correct or to certify such estimates as precisely accurate, has made a good faith conclusion that the financial needs and estimated budgetary plans of the District are reasonable.

ARTICLE VI - MISCELLANEOUS PROVISIONS

Section 6.01. Notices. Any notices required or allowed to be delivered shall be in writing and be deemed to be delivered when: (i) hand delivered to the official hereinafter designated, or (ii) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the party or parties shall have been specified by written notice to the other party delivered in accordance herewith.

If to the City:

Michael Pleus, ICMA-CM
City Manager
City Hall
120 South Florida Avenue
DeLand, Florida 32720

With a copy to:

Darren J. Elkind, Esquire
City Attorney
142 East New York Avenue
DeLand, Florida 32724

If to the District:

District Manager
Breeze Connected, LLC
2161 East County Road 540A #225
Lakeland, Florida 33813

With Copy to:

Kutak Rock LLP
107 West College Avenue
Tallahassee, Florida 32301

Section 6.02. Binding Effect. This Interlocal Agreement shall be binding upon and shall inure to the benefit of the City, the District, and their respective successors and assigns.

Section 6.03. Filing. The City Commission and the District Board hereby authorize and direct, after execution of this Interlocal Agreement by the duly qualified and authorized officers of each of the parties hereto, that this Interlocal Agreement be filed with the Clerk of the Circuit Court of Volusia County, Florida, in accordance with the requirements of Subsection 163.01(11), *Florida Statutes*.

Section 6.04. Applicable Law and Venue/Public Records.

(a). This Interlocal Agreement and the provisions contained herein shall be governed by and construed in accordance with the laws of the State of Florida.

(b). In any action, in equity or law, with respect to the enforcement or interpretation of this Interlocal Agreement, venue shall be solely in Volusia County, Florida. In the event of a dispute arising between the parties, the parties agree to exhaust any alternative dispute resolution procedures reasonably imposed by the City prior to filing suit or otherwise pursuing legal remedies. The District agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration to the City in alternative dispute resolution procedures or which the City had knowledge and failed to present during the alternative dispute resolution procedures. In the event that the City's procedures are exhausted, and a suit is filed, or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through mediation. Mediator selection and the procedures to be employed in mediation shall be mutually acceptable to the parties. Costs of mediation shall be shared equally among the parties.

(c). The parties agree to comply with the law of the State of Florida relating to public records.

(d). **IF THE DISTRICT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE DISTRICT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS INTERLOCAL AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT JULIE A. HENNESSY, MMC, CITY CLERK - AUDITOR, MMC, (386-626-7132, HENNESSY@DELAND.ORG, CITY HALL, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA 32720).**

Section 6.05. Entire Agreement; Integration; Amendments and Waivers; Implied Amendments.

(a). This instrument and its exhibits constitute the entire integrated agreement by and between the parties and supersedes any and all previous discussions, understandings and agreements, if any, between the parties relating to the subject matter of this Interlocal Agreement.

(b). All prior discussions and negotiations by and between the parties are integrated into this Interlocal Agreement.

(c). Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment arising out of a document of equal dignity herewith.

(d). If material changes in Chapters 189 and 190, *Florida Statutes*, or any other controlling Florida Law are deemed by a party to automatically amend this Interlocal Agreement; then, in that event, if a party believes that such is the case, then that party shall, within 5 days, notify the other party of such belief and the rights of the parties to dispute such matter are preserved.

Section 6.06. Continued Effect; Remedies. Notwithstanding anything herein to the contrary, no provision of this Interlocal Agreement shall be construed to affect, alter, or otherwise impair the District's power to impose, levy and collect Capital Assessments or assessments for operation and maintenance purposes and the failure of the District to comply with or provide the enhanced disclosure or notices as described herein shall not in any manner render the Capital Assessments, the operation and maintenance assessments, or any of the proceedings related thereto ineffective; provided, however, that the District must comply with any applicable additional notice requirement set forth in Section 3.03 hereof prior to its annual operations and maintenance budget being effective. The City's sole remedy for the District's failure to perform in accordance with the terms of this Interlocal Agreement shall be an action for mandamus or specific performance, as applicable, by court order, to cause the District to comply with its obligations hereunder.

Section 6.07. Effective Date. This Interlocal Agreement shall become effective after its execution by the authorized representatives of both parties and upon the date of its recording with the Clerk of the Circuit Court of Volusia County, Florida to become a part of the title history of properties in the District. This Interlocal Agreement shall also be recorded in the public records of the City.

Section 6.08. Third Party Beneficiaries. Neither this Interlocal Agreement, or any part or provision thereof, this Interlocal Agreement, creates any rights in any third party or any relationship with any third party and this Interlocal Agreement is meant and intended to be solely for the benefit of the District and the City although the City has undertaken efforts to benefit the general public as a whole in taking the actions set forth herein.

Section 6.09. Construction. This Interlocal Agreement arises out of bona fide and good faith arms-length negotiations by and between the parties and, regardless of which party drafted this Interlocal Agreement, or any part or provision thereof, no part or provision of this Interlocal Agreement, nor the Interlocal Agreement as a whole, shall be construed or interpreted against a party for being the drafted of this Interlocal Agreement or any part or provision of this Interlocal Agreement.

[SIGNATURE PAGES IMMEDIATELY FOLLOW]

CRESSWIND DELAND COMMUNITY
DEVELOPMENT DISTRICT

Emily H. Vaughn
Name: Emily H. VAUGHN
Chair – Board of Supervisors

ATTEST:

Robert Fisher
Name: Robert Fisher
Title: Secretary

APPROVED AS TO FORM AND LEGALITY:

Jere Earlywine, District Counsel

ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF Volusia

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Emily H. Vaughn and Robert Fisher, as Chair of the Board of Supervisors and Secretary, respectively, and they acknowledged executing the same freely and voluntarily and they are personally known to me or provided the following for identification _____. Sworn and subscribed before me, by said persons by means of ☒ physical presence or ☐ online notarization on the 4th day of December, 2023, the said persons did take an oath and were first duly sworn by me, on oath, said persons, further, deposing and saying that they have read the foregoing and that the statements and allegations contained herein are true and correct.

WITNESS my hand and official seal in the County and State last aforesaid this 4th day of December, 2023.

(Affix Notary Seal)



Bridget Stevens
Notary Public: State of Florida
Print Name: Bridget Stevens

[ADDITIONAL SIGNATURE PAGE IMMEDIATELY FOLLOWS]

CITY OF DELAND

Christopher M. Cloudman
Mayor – Commissioner

ATTEST:

Julie A. Hennessy, MMC
City Clerk – Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind, City Attorney

ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____ and _____, as Mayor and City Manager of the City of DeLand, respectively, and they acknowledged executing the same freely and voluntarily and they are personally known to me or provided the following for identification _____. Sworn and subscribed before me, by said persons by means of ☐ physical presence or ☐ online notarization on the ____ day of _____, 2023, the said persons did take an oath and were first duly sworn by me, on oath, said persons, further, deposing and saying that they have read the foregoing and that the statements and allegations contained herein are true and correct.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

(Affix Notary Seal)

Notary Public: State of Florida
Print Name: _____