

**INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND TOWN OF DAVIE  
FOR TRAFFICWAY BEAUTIFICATION  
FOR PINE ISLAND ROAD FROM SW 36 STREET TO NOVA DRIVE**

This Interlocal Agreement (“Agreement”) between Broward County, a political subdivision of the State of Florida (“County”), and Town of Davie, a municipal corporation organized and existing under the laws of the State of Florida (“Municipality”) (each a “Party” and collectively referred to as the “Parties”), is entered into and effective as of the date this Agreement is fully executed by the Parties (the “Effective Date”).

**RECITALS**

A. Pine Island Road from SW 36 Street to Nova Drive is a public trafficway (“Trafficway”), classified as a County road, located within the municipal boundaries of Municipality.

B. It is of mutual benefit to the residents of County and Municipality to beautify the Trafficway by installing the landscaping as detailed in Article 2.

C. County has agreed to permit the beautification of the Trafficway and has expressed its desire to participate in the beautification of the Trafficway through the installation of landscaping and irrigation, detailed in Article 2, subject to Municipality taking on full responsibility for ongoing maintenance and beautification activities.

D. Municipality seeks to have the County undertake certain installation activities associated with the beautification of the Trafficway and understands that County’s willingness to do so is conditioned upon Municipality performing, in perpetuity, the ongoing maintenance and beautification activities after the installation of landscaping by County, as further detailed in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1. DEFINITIONS**

1.1 **Approved Plans** means the construction documents and specifications depicting and defining the Project, including but not limited to the materials to be installed within the Property as referenced in the plans submitted to and approved in writing by the Contract Administrator, filed under Division Project Reference No. 106002.

1.2 **Board** means the Board of County Commissioners of Broward County, Florida.

1.3 **Contract Administrator** means the Director of the Broward County Highway Construction and Engineering Division, or designee.

1.4 **Division** means the Broward County Highway Construction and Engineering Division.

1.5 **Florida-Friendly Landscaping Principles** means using low-maintenance plants and environmentally sustainable practices, described with particularity at <http://www.floridayards.org>.

1.6 **Landscape** or **Landscaping** means living plant materials such as grasses, ground cover, shrubs, vines, trees, or palms, and nonliving durable materials commonly used in environmental design, such as, but not limited to, rocks, pebbles, sand, aesthetic grading or mounding, decorative pavers, and grading, and pump and irrigation system, as detailed in this Agreement.

1.7 **Project** means the installation of the Landscaping as part of the beautification of the Property as described in Article 2 and the Approved Plans.

1.8 **Property** means that portion of the Trafficway as depicted in Exhibit A.

## ARTICLE 2. SCOPE OF PARTICIPATION

2.1 County shall, at its cost:

2.1.1 Prepare, or cause to be prepared, plans and specifications for the Project. Such plans and specifications shall be reviewed and are subject to approval by both the Contract Administrator and a designated representative of Municipality; provided, however, that Municipality shall not unreasonably withhold its approval.

2.1.2 In accordance with the plans and specifications approved by both the Contract Administrator and the Municipality (the "Approved Plans"), install, or cause to be installed, all Landscaping and irrigation and other necessary items, including, but not limited to electric and water meters. After completion of the Project, County shall provide to Municipality a copy of the as-built drawings and warranties, if any.

2.1.3 Provide watering of the Landscaping installed as part of the Project until such time that County has completed the installation of Landscaping for the Project.

2.1.4 Review, approve, and certify, through its Registered Landscape Architect that the Landscaping installation portion of the Project has been completed in accordance with the plans and specifications.

2.1.5 Provide written notice to Municipality, by and through the Contract Administrator, that the Project has been completed.

2.1.6 Have no further obligations except as otherwise specifically set forth herein.

2.2. Municipality shall:

2.2.1 Waive or reimburse County for all municipal permit and inspection fees pertaining to the Project.

2.2.2 Upon notice from County that the installation of the Landscaping as part of the Project has been completed, maintain and repair all Landscaping, irrigation systems, and other installations made by County (e.g., water and electric meters) as part of the Project in accordance with the requirements set forth in the Approved Plans.

2.2.3 If utilities are to be utilized in the Project (e.g., electric service, water service, etc.), take all necessary steps to properly establish the utility account(s) with the Municipality's electrical and water supplier in Municipality's name commencing at the time of the initial energizing of the irrigation systems, and shall pay and continue to pay, commencing upon completion of County's portion of the Project, all electrical and water supplier charges relating to the pump and irrigation systems as such charges arise.

2.2.4 Properly maintain and fertilize all vegetation in accordance with the Broward County Naturescape Program and Florida-Friendly Landscaping Principles, keep all vegetation as free from disease and harmful insects as practicable; properly mulch the vegetation beds, keeping them free from weeds; periodically mow the grass to maintain a neat and proper appearance; prune all plants so as to remove all dead or diseased parts of plants and all parts of plants which present a visual hazard or physical obstacle to the use of the Trafficway; remove and replace all vegetation which is dead or diseased or which otherwise falls below the initial level of beautification of the Project and keep litter removed from the Project. Any replacement of vegetation as required herein shall be accomplished by the use of plants of the same grade as specified in the Approved Plans and specifications and shall be of the same size as those existing at the time of replacement or by the use of substitute plants that are acceptable to Municipality, subject to review and approval by the Contract Administrator.

2.2.5 Maintain all nonliving durable materials commonly used in environmental design, such as, but not limited to, rocks, pebbles, sand, aesthetic grading or mounding, decorative pavers, and grading, in good repair.

2.2.6 Maintain the entire pump and irrigation system and all its parts in working order

according to the Approved Plans and specifications, allow irrigation system connection to Municipality's water system, and operate said irrigation system according to applicable South Florida Water Management Division regulations and restrictions. As part of such maintenance responsibility, Municipality shall keep the pump and irrigation system in good working order and repair or replace defective or worn-out irrigation system parts and equipment, which system parts and equipment shall include, but not be limited to, pumps, pipes, and sprinkler heads. Municipality's responsibility to keep the system in good working order shall include all necessary maintenance, repair, and replacement of any type or nature, including, but not limited to, maintenance, repair, and replacement due to normal wear and tear, acts of God, vandalism, and accidents. Any modifications, changes, or alterations to the pump and irrigation system shall be reviewed and approved by both the Contract Administrator and Municipality.

2.2.7 Provide the Contract Administrator with immediate verbal notice, followed by prompt written notice (in the manner set forth in Article 4 of this Agreement), of any actual damage, or of any condition on the Property related to the Project that might present a risk of damage to the Property or adjacent property, or might pose a risk of injury to any person. Municipality shall contact the appropriate emergency services (fire-rescue, police, Florida Power & Light) immediately upon identification of any potential risk or injury to any person, and shall keep a written record of all contact made including the person(s) with whom Municipality has communicated.

2.3 The irrigation systems and Landscaping shall not be removed or relocated, nor modified, changed, or altered, without the express written consent of the Contract Administrator.

2.4 All Landscaping placed upon the Property (whether initially by County or as replacements by Municipality) shall remain the property of Municipality and shall be placed upon the Property at Municipality's risk.

2.5 Any relocation, replacement, modification, changes, or alteration of the Landscaping by Municipality shall require the prior submittal of plans by Municipality to the Division and are subject to approval by the Contract Administrator, consistent with the requirements provided in this Agreement.

2.6 If Municipality takes any action or makes any omission related to the Property or Project that causes or results in alterations or damage to County property, Municipality shall, at its own expense, restore such property to its condition before the alterations or damages occurred. If Municipality fails to make such restoration within thirty (30) calendar days after County's request, County may make the restoration or exercise its rights as provided in Article 3 of this Agreement. If County elects to make the restoration, it will invoice the Municipality for the costs thereof. Municipality shall pay such invoice within thirty (30) calendar days after receipt.

2.7 If Municipality takes any action or makes any omission that causes or results in alterations to the Property (or any materials on the Property), which alterations are not specified in the Approved Plans, Municipality shall, at its own expense, restore the Property to its condition before the alterations were made, or to such condition as approved in writing by the Contract Administrator. If Municipality fails to make such restoration within thirty (30) calendar days after County's request, County may make the restoration or exercise its rights as provided in Article 3 of this Agreement. If County elects to make the restoration, it will invoice the Municipality for the costs thereof. Municipality shall pay such invoice within thirty (30) calendar days after receipt.

2.8 If Municipality takes any action or makes any omission that causes or results in damage to the Property (or any materials on the Property), Municipality shall, at its own expense, repair such damage. If Municipality fails to make such repair within thirty (30) calendar days after County's request, County may make the repair or exercise its rights as provided in Article 3 of this Agreement. If County elects to make the repair, it will invoice Municipality for the costs thereof. Municipality shall pay such invoice within thirty (30) calendar days after receipt.

2.9 This Agreement does not change the functional classification of the Trafficway.

2.10 Municipality's obligations under this Agreement may be performed by Municipality through the use of its employees, or Municipality may enter into a contract with a third party to perform the services. If Municipality contracts with a third party, Municipality shall remain fully responsible hereunder and shall ensure that the third party complies at all times with each and every term, condition, duty, and obligation set forth herein.

2.11 In the administration of this Agreement, as contrasted with matters of policy, Municipality may rely on the instructions or determinations made by the Contract Administrator, provided, however, that such instructions and determinations do not change the requirements of this Article 2.

### **ARTICLE 3. TERM AND TERMINATION**

3.1 This Agreement shall begin on the Effective Date and continue in perpetuity unless terminated as provided herein.

3.2 This Agreement may be terminated for cause by County if Municipality breaches any of its obligations under this Agreement and has not corrected the breach within thirty (30) calendar days after receipt of written notice identifying the breach. County may, at the option of the Contract Administrator, cause such breach to be corrected and invoice Municipality for the costs of the correction or may terminate this Agreement. If County opts to correct the breach and invoice Municipality for the costs of correction, Municipality shall pay such invoice within thirty

(30) calendar days after receipt. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, at County's sole election, be deemed a termination for convenience, which shall be effective thirty (30) calendar days after such notice of termination for cause is provided.

3.3 This Agreement may be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in the written notice provided by County to Municipality, which termination date shall not be less than thirty (30) calendar days after the date of such written notice.

3.4 This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate if the County Administrator determines that termination is necessary to protect the public health or safety. Termination under this section shall be effective on the date County provides notice to Municipality of such termination.

3.5 Notice of termination shall be provided in accordance with Article 4 of this Agreement, except that notice of termination by County Administrator, pursuant to Section 3.4 of this Agreement, may be verbal notice that shall be promptly confirmed in writing in accordance with Article 4 of this Agreement.

#### **ARTICLE 4. NOTICES**

Unless otherwise stated herein, for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Addresses may be changed by the applicable Party through written notice.

**FOR COUNTY:**

Director, Broward County Highway Construction and Engineering Division  
One North University Drive, Suite 300-B  
Plantation, Florida 33324-2038  
Email: rtornese@broward.org

**FOR MUNICIPALITY:**

Town Administrator  
8800 SW 36th Street  
Davie, FL 33328  
Email: rlemack@davie-fl.gov

## ARTICLE 5. INDEMNIFICATION

5.1 County and Municipality are entities subject to Section 768.28, Florida Statutes, as may be amended from time to time, and agree to be fully responsible for the negligent or wrongful acts and omissions of their respective agents or employees. Nothing herein is intended to serve as a waiver of sovereign immunity by any Party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by either Party to be sued by third parties in any matter arising out of this Agreement or any other contract.

5.2 If Municipality contracts with a third party to perform any of Municipality's obligations under this Agreement ("Contractor"), Municipality shall ensure that contract includes the following provisions:

Contractor shall indemnify and hold harmless Broward County ("County") and its current, past, and future officers and employees (collectively, "Indemnified Party"), from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees (collectively, a "Claim"), to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or persons employed or utilized by Contractor in the performance of this Contract, including but not limited to Contractor's Subcontractors, sub-subcontractors, materialmen, or agents of any tier, or any of their respective employees. To the extent considered necessary by Contract Administrator and County Attorney, any sums due Contractor under this Contract may be retained by County until all of County's claims for indemnification pursuant to this Contract have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by County. These indemnifications shall survive the term of this Contract.

5.3 The obligations of this article shall survive the expiration or earlier termination of this Agreement.

## ARTICLE 6. INSURANCE

6.1 Municipality is a governmental entity and is fully responsible for the acts and omissions of its agents or employees, subject to any applicable limitations of Section 768.28, Florida Statutes.

6.2 Upon request by County, Municipality must provide County with written verification of liability protection that meets or exceeds any requirements of Florida law. If Municipality holds any excess liability coverage, Municipality must ensure that Broward County is named as an additional insured and certificate holder under such excess liability policy and provide evidence of same to County.

6.3 If Municipality maintains broader coverage or higher limits than the minimum coverage required under Florida law, County shall be entitled to such broader coverage and higher limits on a primary and non-contributory basis. County's insurance requirements shall apply to Municipality's self-insurance.

6.4 In the event Municipality contracts with a Subcontractor to provide any of the Services set forth herein, Municipality shall require that each Subcontractor procure and maintain insurance coverage that adequately covers each Subcontractor's exposure based on the Services provided by that Subcontractor. Municipality must ensure that all such Subcontractors name "Broward County" as an additional insured and certificate holder under the applicable insurance policies. Municipality shall not permit any Subcontractor to provide Services until the insurance requirements of the Subcontractor under this section are met. If requested by County, Municipality shall furnish evidence of insurance of all such Subcontractors.

6.5 County reserves the right to review any and all insurance policies, and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Agreement.

6.6 Coverage is not to cease and is to remain in full force and effect until all performance required of Municipality's contractor is completed.

#### **ARTICLE 7. MISCELLANEOUS**

7.1 Rights in Documents and Work. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement before Municipality has received notice from the County that the Project has been completed are and shall remain the property of County. Any and all reports, photographs, surveys, maintenance records, and other data and documents created by Municipality in connection with this Agreement after Municipality has received notice from County that the Project has been completed are and shall remain the property of Municipality, and copies of same shall be provided to County, upon request, at no cost. Municipality shall ensure that the requirements of this section are included in all agreements with third parties relating to this Agreement.

7.2 Independent Contractor. Municipality is an independent contractor under this Agreement. In performing under this Agreement, neither Municipality nor its agents shall act as officers, employees, or agents of County. Municipality has no power or right to bind County to any obligation not expressly undertaken by County under this Agreement.

7.3 Third-Party Beneficiaries. Neither Municipality nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that



there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

7.4 Assignment and Performance. Neither this Agreement nor any right or interest in it may be assigned, transferred, or encumbered by Municipality without the prior written consent of County, which consent may be withheld in County's sole discretion. Any assignment, transfer, or encumbrance in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity. Municipality represents that each person and entity that will perform services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. Municipality agrees that all services under this Agreement will be performed in a skillful and respectful manner, and that the quality of all such services will equal or exceed prevailing industry standards for the provision of such services.

7.5 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. County's failure to enforce any provision of this Agreement will not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach will not be deemed a waiver of any subsequent breach and will not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

7.6 Compliance with Laws. Municipality shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.7 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. It may not be modified or terminated except as provided in this Agreement. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

7.8 Joint Preparation. This Agreement has been jointly prepared by the Parties and will not be construed more strictly against either Party.

7.9 Interpretation. The titles and headings contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall

include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein,” “hereof,” “hereunder,” and “hereinafter,” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

7.10 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

7.11 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement will be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, MUNICIPALITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS’ FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

7.12 Amendments. No modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of the Parties.

7.13 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

7.14 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibit A is incorporated into and made a part of this Agreement.

7.15 Representation of Authority. Each individual executing this Agreement on behalf of a Party represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

7.16 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which will be deemed to be an original, but all of which, taken together, will constitute one and the same agreement.

7.17 Iron and Steel Products. If this Contract is for a “public works project” as defined in Section 255.0993, Florida Statutes, then any iron or steel product permanently incorporated in the Project must be produced in the United States, unless specifically exempted in writing by the Contract Administrator in accordance with Section 255.0993, Florida Statutes.

7.18 Nondiscrimination. No Party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement.

7.19 Time of the Essence. Time is of the essence for Municipality’s performance of all obligations under this Agreement.

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Broward County, through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 2024; and Municipality, signing by and through its duly authorized representative.

COUNTY

ATTEST:


BROWARD COUNTY, by and through its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as ex officio Clerk of the Broward County Board of County Commissioners

By: \_\_\_\_\_  
Mayor

\_\_\_\_ day of \_\_\_\_\_, 2025

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

By:  Digitally signed by McKillop Erlandson  
Date: 2025.04.08 12:31:54 -04'00'  
\_\_\_\_\_  
McKillop Erlandson (Date)  
Assistant County Attorney

By: **NATHANIEL A. KLITSBERG** Digitally signed by NATHANIEL A. KLITSBERG  
Date: 2025.04.08 17:51:14 -04'00'  
\_\_\_\_\_  
Nathaniel A. Klitsberg (Date)  
Transportation Surtax General Counsel

NAK/mbe  
09/23/24  
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INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND TOWN OF DAVIE  
FOR TRAFFICWAY BEAUTIFICATION  
FOR PINE ISLAND ROAD FROM SW 36 STREET TO NOVA DRIVE

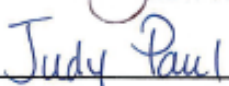
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TOWN OF DAVIE

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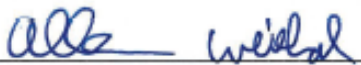
  
\_\_\_\_\_  
CITY CLERK

By:   
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
Print Name

15<sup>th</sup> day of January, 2025

I HEREBY CERTIFY that I have approved this Agreement as to form and legal sufficiency subject to execution by the parties:

  
\_\_\_\_\_  
Town Attorney

**EXHIBIT A**  
**DEPICTION OF PROJECT LOCATION PROPERTY**

