



## **AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF WILTON MANORS FOR A DISBURSEMENT FROM THE BROWARD COUNTY TREE PRESERVATION TRUST FUND**

This Agreement ("Agreement") is made and entered into by and between Broward County, a political subdivision of the state of Florida ("County"), and City of Wilton Manors, a municipal corporation ("City") (each a "Party" and collectively referred to as the "Parties").

### **RECITALS**

- A. City submitted a request for funding to County's Tree Preservation Trust Fund Committee for a project described in Exhibit A ("Services").
- B. County, through its Tree Preservation Trust Committee, reviewed the plans submitted by City, approved the request, and recommended approval of the disbursal of funds from the Tree Preservation Trust Fund in an amount not-to-exceed Twenty-Two Thousand Five Hundred and One Dollars (\$22,501.00).
- C. The Parties wish to enter into an Agreement to authorize and govern the disbursement of monies for the Services.

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 **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.
- 1.2 **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.3 **Code** means the Broward County Code of Ordinances.
- 1.4 **Contract Administrator** means the County's Tree Preservation Program Manager or designee.
- 1.5 **Services** means all work required of City under this Agreement, including without limitation all deliverables, consulting, training, project management, or other services specified in the Scope of Services attached as Exhibit A.
- 1.6 **Subcontractor** means any entity or individual providing Services through City. The term "Subcontractor" includes all subconsultants.

## ARTICLE 2. EXHIBITS

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Certification of Payments to Subcontractors and Suppliers</b>

## ARTICLE 3. SCOPE OF SERVICES

City shall perform all Services, including without limitation the work specified in Exhibit A (the "Scope of Services"). The Scope of Services is a description of City's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion would render performance by City impractical, illogical, or unconscionable. City shall meet or exceed all Applicable Law in performing the Services.

## ARTICLE 4. TERM AND TIME OF PERFORMANCE

4.1 **Term.** This Agreement begins on the date it is fully executed by the Parties ("Effective Date") and ends eighteen (18) months after the Effective Date ("Initial Term"), unless otherwise terminated or extended as provide by this Agreement. The Initial Term and any Extension Term, as defined in this article, are collectively referred to as the "Term."

4.2 **Extensions.** If the County elects to extend the term of this Agreement beyond the Initial Term, City agrees it shall continue to provide the Services upon the same terms and conditions as contained in this Agreement for such extended period, which shall not be more than three (3) months beyond the Initial Term. County's Purchasing Director may exercise this option by written notice stating the duration of the extended period which notice shall be provided to City at least thirty (30) calendar days prior to the end of the Initial Term.

4.3 **Fiscal Year.** The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds pursuant to Chapter 129 and, if applicable, Chapter 212, Florida Statutes.

4.4 **Time of the Essence.** Unless otherwise agreed by the Parties in writing, all duties, obligations, and responsibilities of City required by this Agreement shall be completed no later than eighteen (18) months after the Effective Date. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

## ARTICLE 5. COMPENSATION

5.1 **Maximum Amounts.** For all goods and Services provided under this Agreement County will pay City up to a maximum amount as follows:

Services/Goods	Not-To-Exceed Amount
Services/Goods	\$22,501.00
<b>TOTAL NOT TO EXCEED</b>	<b>\$22,501.00</b>

Payment shall be made only for work actually performed and completed pursuant to this Agreement, as set forth in Section 5.2, which amount shall be accepted by City as full compensation for all such goods and Services. City acknowledges that the amounts set forth in this Agreement are the maximum amounts payable and constitute a limitation upon County's obligation to compensate City for goods and Services. These maximum amounts, however, do not constitute a limitation of any sort upon City's obligation to provide all goods and perform all Services. Unless otherwise expressly stated in this Agreement, City shall not be reimbursed for any expenses it incurs under this Agreement.

5.2 Method of Billing and Payment.

5.2.1 City shall submit an invoice for compensation after the Services have been completed. Completion of the Services includes County inspection of the tree plantings, correction of any issues noted by County, and County approval that the Services were completed before invoicing. An original invoice plus one (1) copy shall be submitted no later than sixty (60) days after this Agreement expires or is otherwise terminated. Invoices shall describe the goods provided and Services performed and, as applicable, the personnel, hours, tasks, or other details as requested by the Contract Administrator. City shall submit a Certification of Payments to Subcontractors and Suppliers ("Exhibit B") if the invoice includes Services performed by a Subcontractor. The certification shall be accompanied by a copy of the notification sent to each unpaid Subcontractor and supplier listed on the form, explaining the good cause why payment has not been made. Failure to pay a Subcontractor or supplier in accordance with this subsection shall be a material breach of this Agreement, unless City demonstrates to Contract Administrator's satisfaction that such failure to pay results from a bona fide dispute with the Subcontractor or supplier, and further promptly pays the applicable amount(s) to the Subcontractor or supplier upon resolution of the dispute. City shall include requirements substantially similar to those set forth in this subsection in its contracts with Subcontractors and suppliers.

5.2.2 Any invoice by City shall be no more than the Total Cost set forth in Exhibit A for the applicable goods and Services.

5.2.3 County shall pay City within thirty (30) calendar days after receipt of City's proper invoice, in accordance with the "Broward County Prompt Payment Ordinance," Section 1-51.6, of the Code. To be deemed proper, all invoices must (a) comply with all applicable requirements set forth in this Agreement or the Code and (b) be submitted on then-current County form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of City to comply with a term, condition, or requirement of this Agreement.

5.3 **Subcontractors.** City shall invoice Subcontractor fees only in the actual amount paid by City, without markup or other adjustment.

5.4 **Withholding by County.** Notwithstanding any provision of this Agreement to the contrary, County may withhold payment, in whole or in part, (a) in accordance with Applicable Law, or (b) to the extent necessary to protect itself from loss on account of (i) inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator, or (ii) City's failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by County.

5.5 Payment shall be made to City at the address designated for Notices under Section 10.9.

#### **ARTICLE 6. REPRESENTATIONS AND WARRANTIES**

6.1 **Representation of Authority.** City represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of City, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that City has with any third party or violates Applicable Law. City further represents and warrants that execution of this Agreement is within City's legal powers, and each individual executing this Agreement on behalf of City is duly authorized by all necessary and appropriate action to do so on behalf of City and does so with full legal authority.

6.2 **Contingency Fee.** City represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for City, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

6.3 **Truth-In-Negotiation Representation.** City's compensation under this Agreement is based upon representations supplied to County by City, and City certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent such representation is untrue.

6.4 **Public Entity Crime Act.** City represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, City further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether City has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to City under this Agreement.

6.5 **Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern.** City represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. City represents and certifies that it is not, and for the duration of the Term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. City represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

6.6 **Verification of Employment Eligibility.** City represents that City and each Subcontractor has registered with and uses the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If City violates this section, County may immediately terminate this Agreement for cause and City shall be liable for all costs incurred by County due to the termination.

6.7 **Prohibited Telecommunications Equipment.** City represents and certifies that City and all Subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. City represents and certifies that City and all Subcontractors shall not provide or use such covered telecommunications equipment, system, or services during the Term.

#### **ARTICLE 7. INSURANCE**

7.1 City is an entity subject to Section 768.28, Florida Statutes, and City shall furnish the Contract Administrator with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

7.2 If City uses a Subcontractor, City shall ensure that each Subcontractor names "Broward County" as an additional insured under the Subcontractor's Commercial General Liability, Business Automobile Liability, and Excess/Umbrella policies.

#### **ARTICLE 8. TERMINATION**

8.1 **Termination for Cause.** This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may be terminated for cause by County for reasons including, but not limited to, the City's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices. Unless otherwise stated in this Agreement, if this Agreement was approved by Board action, termination for cause by County must be by action of

the Board or the County Administrator; in any other instance, termination for cause may be by the County Administrator, the County representative expressly authorized under this Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. If County erroneously, improperly, or unjustifiably terminates this Agreement for cause, such termination shall be deemed a termination for convenience pursuant to Section 8.2 effective thirty (30) days after such notice was provided and Contractor shall be eligible for the compensation provided in Section 8.2 as its sole remedy.

**8.2 Termination for Convenience; Other Termination.** This Agreement may also be terminated for convenience by the Board with at least thirty (30) days advance written notice to City. City acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience including in the form of County's obligation to provide advance notice to City of such termination in accordance with this section. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If this Agreement is terminated by County pursuant to this section, City shall be paid for any Services properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable, and County shall have no further obligation to pay City for Services under this Agreement.

**8.3** Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator, which the County Administrator deems necessary to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

**8.4** In addition to any termination rights stated in this Agreement, County shall be entitled to seek any and all available contractual or other remedies available at law or in equity.

## **ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE**

**9.1** 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.

City shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26.

Failure by City to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or to exercise any other remedy provided under this Agreement, the Code, Broward County Administrative Code, or under other Applicable Law, all such remedies being cumulative.

9.2 Although no County Business Enterprise goal has been set for this Agreement, County encourages City to give full consideration to the use of CBE firms to perform work under this Agreement.

## **ARTICLE 10. MISCELLANEOUS**

10.1 **Contract Administrator Authority.** The Contract Administrator is authorized to coordinate and communicate with City to manage and supervise the performance of this Agreement. acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise materially modify the Scope of Services except as expressly set forth in this Agreement or, to the extent applicable, in the Broward County Procurement Code. Unless expressly stated otherwise in this Agreement or otherwise set forth in the Code or the Broward County Administrative Code, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement. The Contract Administrator may also approve in writing minor modifications to the Scope of Services that do not increase the total cost to County or waive any rights of County.

10.2 **Rights in Documents and Work.** Any and all reports, photographs, surveys, documents, materials, data, or other work created by City in connection with performing Services, whether finished or unfinished ("Documents and Work"), shall be the joint property of County and City and, if a copyright is claimed, City grants to County a nonexclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. Upon expiration or termination of this Agreement, the Documents and Work shall be the joint property of County and City and copies shall be delivered by City to the Contract Administrator within seven (7) days after expiration or termination. Any compensation due to City may be withheld until all Documents and Work are received as provided in this Agreement. City shall ensure that the requirements of this section are included in all agreements with all Subcontractor(s).

10.3 **Public Records.** Notwithstanding anything else in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Agreement. If City is acting on behalf of County as stated in Section 119.0701, Florida Statutes, City shall:

10.3.1 Keep and maintain public records required were County performing the Services under this Agreement;

10.3.2 Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

10.3.3 Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law

for the duration of the Agreement and after completion or termination of the Agreement if the records are not transferred to County; and

10.3.4 Upon termination of the Agreement, transfer to County, at no cost, all public records in possession of City or keep and maintain public records required were County performing the service. If City transfers the records to County, City shall destroy any duplicate public records that are exempt or confidential and exempt. If City keeps and maintains public records upon termination of the Agreement, City shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

The failure of City to comply with the provisions of this section shall constitute a material breach of this Agreement entitling County to exercise any remedy provided in this Agreement or under Applicable Law.

A request for public records regarding this Agreement may be made directly to either Party, who will be responsible for responding to any such public records requests. The Parties will provide any requested records to each other to enable timely responses to the public records requests.

**IF EITHER PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO A PARTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE BROWARD COUNTY CUSTODIAN OF PUBLIC RECORDS, PETER BURKE AT 954-519-1224, pburke@broward.org, 1 N. University Drive, #201, Plantation, FL 33324, OR FAITH LOMBARDO AT 2020 Wilton Drive, Wilton Manors, FL 33305; flombardo@wiltonmanors.com; 954-390-2120.**

10.4 Financial Statements and Management Letters. City shall provide a copy of City's audited financial statements and any applicable management letter(s) as well as City's response to any management letter(s). The audit of the financial statements shall be prepared by an independent certified public accountant in accordance with generally accepted accounting principles for the fiscal year County funds are received and for each subsequent fiscal year until such time as all of County funds are expended.

City shall provide to County's Contract Administrator copies of a special report showing all revenues, by source, and all expenditures as set forth in the Scope of Services for the program being funded by this Agreement. The report shall specifically disclose any funds received which were not expended in accordance with this Agreement or with any regulations incorporated by reference therein. It shall identify the total of noncompliant expenditures as due back to County. If the special report is prepared by an independent certified public accountant, it shall be in accordance with generally accepted auditing standards. If the special report is prepared by an internal auditor, it shall be as nearly in accordance with generally accepted auditing standards as

the status of the internal auditor permits, realizing that the internal auditor may not issue the opinions required therein. The special report is to be filed with City's governing body.

City shall submit the documents required by this section to County's Contract Administrator within one hundred twenty (120) days after the close of City's fiscal years in which City receives funds under this Agreement, unless otherwise approved by the Contract Administrator in writing.

10.5 Independent Contractor. City is an independent contractor of County, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services, neither City nor its agents shall act as officers, employees, or agents of County. City shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

10.6 Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Agreement is as a Party to this Agreement and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to County as a Party to this Agreement.

10.7 Governmental Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by either Party nor shall anything included herein be construed as consent by either Party to be sued by a third party in any matter arising out of this Agreement. Each Party is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the acts and omissions of its agents or employees to the extent required by applicable law.

10.8 Third Party Beneficiaries. Neither City 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.

10.9 Notices. Unless otherwise stated herein, for 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 e-mail to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous e-mail is also sent). Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

FOR COUNTY:

Broward County Resilient Environment Department  
Attn: Leonard Vialpando, Director  
Governmental Center, Room 329B

115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Email address: lvialpando@broward.org

**FOR CITY:**

Leigh Ann Henderson, City Manager  
City of Wilton Manors  
2020 Wilton Drive  
Wilton Manors, Florida 33305  
Email address: lhenderson@wiltonmanors.com

10.10 **Assignment.** All Subcontractors must be expressly identified in this Agreement or otherwise approved in advance and in writing by County's Contract Administrator. Except for approved subcontracting, neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by City without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract 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. County reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

10.11 **Conflicts.** Neither City nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with City's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. City shall require all Subcontractors, by written contract, to comply with the provisions of this section to the same extent as City.

10.12 **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 hereof. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

10.13 **Compliance with Laws.** City and the Services must comply with Applicable Law, including without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

10.14 **Severability.** In the event 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.

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

10.16 Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any 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. Any reference to approval by County shall require approval in writing, unless otherwise expressly stated.

10.17 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced 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.

10.18 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall 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. **EACH PARTY HEREBY EXPRESSLY WAIVE ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

10.19 Amendments. Unless expressly authorized herein, 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 executed by duly authorized representatives of County and City.

10.20 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

**10.21 Payable Interest**

**10.21.1 Payment of Interest.** Unless prohibited by Applicable Law, County shall not be liable for interest to City for any reason, whether as prejudgment interest or for any other purpose, and City waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

**10.21.2 Rate of Interest.** If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

**10.22 Incorporation by Reference.** Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

**10.23 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 shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

**10.24 Use of County Name or Logo.** City shall not use County's name or logo in any marketing or publicity materials without prior written consent of the Contract Administrator.

(Remainder of Page Intentionally Left Blank)

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 \_\_\_\_\_, 20\_\_, and City of Wilton Manors signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

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

By: \_\_\_\_\_  
Mayor  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

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

Digitally signed by Jennifer Brown  
Date: 2024.01.09 11:36:42 -05'00'  
By Jennifer Brown  
Jennifer D. Brown (Date)  
Assistant County Attorney

Digitally signed by MAITE AZCOITIA  
Date: 2024.01.09 12:02:53 -05'00'  
By MAITE AZCOITIA  
Maite Azcoitia (Date)  
Deputy County Attorney

JDB/gmb  
Wilton Manors Tree Trust Fund Agreement Phase 8  
08/31/2023  
#70056

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF WILTON MANORS FOR A  
DISBURSEMENT FROM THE BROWARD COUNTY TREE PRESERVATION TRUST FUND

CITY

CITY OF WILTON MANORS

ATTEST:

*Frank Lombardo*  
CITY CLERK

By: *[Signature]*  
CITY MAYOR

Print Name SCOTT NEWTON

12<sup>th</sup> day of December, 2023

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

*/s/ Kerry L. Ezrol*  
City Attorney

**Exhibit A- Scope of Services**

**City of Wilton Manors  
Wilton Drive Landscaping Improvements/Tree Giveaways  
Tree Preservation Trust Fund Project**

**Preliminary Estimate of Probable Costs**

**Wilton Drive**

<b>Tree Species</b>	<b>Size</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total Cost</b>
Dahoon Holly Tree	8.5-10'	13	\$356.00	\$4,628.00
Gumbo Limbo Tree	8.5-10'	2	\$346.00	\$692.00
Live Oak Tree	9 -10'	1	\$409.00	\$409.00
Pigeon Plum Tree	8' CT	5	\$1,679.00	\$8,395.00
Satin Leaf Tree	14'	1	\$787.00	\$787.00

**Additional Ancillary Costs**

Mulch and Irrigation	N/A	N/A	N/A	\$3,728.00
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**Tree Giveaways:**

**2021**

<b>Tree Species</b>	<b>Size</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total Cost</b>
Fiddlewood	3 Gal	40	\$9.50	\$380.00
Gumbo Limbo Tree	3 Gal.	25	\$9.50	\$238.00
Pigeon Plum	3 Gal.	40	\$9.50	\$380.00
Silver Buttonwood	3 Gal.	40	\$5.25	\$210.00

**2022**

<b>Tree Species</b>	<b>Size</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total Cost</b>
Wild Tamarind Tree	3 Gal.	30	\$10.00	\$300.00
Allspice Tree	3 Gal.	30	\$10.00	\$300.00
Gumbo Limbo	3 Gal.	20	\$9.50	\$190.00
Simpson Stopper Tree	3 Gal.	40	\$4.75	\$190.00
Bahama Cassia Tree	3 Gal.	40	\$10.50	\$420.00

**2023**

<b>Tree Species</b>	<b>Size</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total Cost</b>
Mahogany	3 Gal	30	\$11.00	\$330.00
Jatropha Tree	3 Gal.	78	\$8.00	\$624.00
Gumbo Limbo	3 Gal.	30	\$10.00	\$300.00

**Wilton Drive Landscaping Improvements Project Requirements:**

1. City or its landscape contractor shall install all trees indicated above not marked as giveaways and provide all mulch, staking, fertilizing, soil and watering.
2. Supplemental initial watering shall be provided 3 times a week for at least 45 days after planting. This will be coordinated with the revised irrigation system by the general contractor.
3. Landscape contractor shall provide periodic site inspections to review the condition of the plantings.
4. Tree selection, location and installation shall be supervised by city staff.

**Tree Giveaway Project Requirements:**

All trees purchased for the tree giveaway shall be Florida Number One Grade quality or better as specified by the Florida Grades and Standards for Nursery Plants, Florida Department of Agriculture and Consumer Services.

**Total Project Costs: \$22,501.00**

**EXHIBIT B- CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS**

RLI/Bid/Contract No. \_\_\_\_\_

Project Title \_\_\_\_\_

The undersigned City hereby swears under penalty of perjury that:

1. City has paid all subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with Section 4.2.1 of the Agreement, except as provided in paragraph 2 below.

2. The following subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

3. The undersigned is authorized to execute this Certification on behalf of City.

Dated \_\_\_\_\_, 20\_\_

\_\_\_\_\_ City

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Name and Title)

STATE OF )  
                  ) SS  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(NOTARY SEAL)

\_\_\_\_\_  
(Signature of person taking acknowledgment)

\_\_\_\_\_  
(Name of officer taking acknowledgment; printed/typed/stamped)

My commission expires: