

LITTER PREVENTION AND RECYCLING EDUCATION CONTRACT

This Contract made and entered into this _____ day of _____, 2020 by and between the BOARD OF COUNTY COMMISSIONERS of Brevard County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY", and KEEP BREVARD BEAUTIFUL, INC., a non-profit organization incorporated under the laws of the State of Florida, hereinafter referred to as "KBB".

WITNESSETH

WHEREAS, KBB has successfully performed and made recommendations to the COUNTY concerning beautification, litter prevention and control and recycling of materials; has the experience and qualifications in the development of educational materials and school curricula and has been involved in the public education of such for a number of years successfully for the COUNTY; and

WHEREAS, the COUNTY desires the services of KBB in order to implement these certain recommendations made by KBB as included in this Scope of Services as described in Exhibit "A" and Exhibit "B" attached hereto, respectively.

NOW THEREFORE, in consideration of the mutual covenants contained herein the parties agree:

SECTION-1 SCOPE OF SERVICES

KBB agrees to perform the services identified in Exhibit "A" entitled "Scope of Services - Litter Prevention and Recycling Education Agreement" and Exhibit "B" entitled "Budget – Litter Prevention and Recycling Education Agreement", attached here to.

- A. Time of Performance.** All reports, documents and activities required by this Contract shall be completed and delivered to the COUNTY within the time specified in Exhibit's "A" and "B" attached hereto.
- B. Compensation.** Invoices are to be submitted as work is completed and reflect specific detail to the time and work accomplished in accordance with the schedules in Exhibit's "A" and "B" attached hereto.
- C.** In consideration of the services rendered by KBB the COUNTY agrees to pay KBB the sum of \$113,947.00 per year to be paid as invoiced in Exhibit "B" for "Litter Prevention and Recycling Education" plus up to \$4,100.00 per year for reimbursable material costs identified in Item H of Exhibit "B" and other supporting documentation as may be determined appropriate by the COUNTY. KBB will invoice the COUNTY monthly according to the procedures described in "H. Reporting and Invoices" of Exhibit "A".

Programs and Events Planning	\$	2,000.00
Periodic Cleanups	\$	27,000.00
Ongoing Cleanups	\$	33,000.00
Grants	\$	11,000.00
Public Information and Recognition	\$	3,000.00
Recycling Education Program	\$	25,000.00
Student Information, Recognition	\$	6,000.00
Reporting	\$	6,447.00
Materials	\$	4,100.00
Total Compensation	\$	118,047.00

D. Independent KBB. KBB shall perform its duties and responsibilities under this Contract as an independent KBB and the employees and agents of KBB shall not be construed to be agents and employees of Brevard County.

E. Contract Specifications. The parties agree that the Solid Waste Management Director, in sole discretion, shall determine whether the work performed meets the contract specifications. In the event the work does not meet the specifications of the COUNTY, the COUNTY has the right to do either (or more) of the following:

1. The COUNTY has the right to correct any work so performed by KBB and deduct the expenses for doing so from the final payment due KBB.
2. The COUNTY will hold back final payment due KBB until such time as the work completed to the satisfaction of the COUNTY and in compliance with the COUNTY's specifications. The remedies contained herein are not exclusive and the COUNTY reserves the right to pursue any and all other remedies it deems applicable.

F. Indemnification. KBB shall indemnify and hold harmless the COUNTY and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from the performance of its work under this Contract, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of KBB, or anyone directly or indirectly employed by KBB, or anyone directly or indirectly employed by KBB, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a Party indemnified thereunder. In any and all claims against the COUNTY, or any of its agents or anyone directly or indirectly employed by KBB, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for KBB, under workers' compensation acts, or other related policies of insurance. KBB agrees to indemnify the COUNTY and pay the cost of the COUNTY'S legal defenses, including fees of attorneys as may be selected by the COUNTY, for all claims described in the hold harmless clause herein. Such payment on behalf of the COUNTY shall be in

addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY'S exclusive remedy. This provision shall survive the termination of this Contract with respect to any claims or liability accruing prior to such termination. The parties acknowledge specific consideration has been exchanged for this provision.

G. Insurance. KBB, at its own expense, shall keep in force and at all times maintain during the term of this Contract:

1. **General Liability Insurance:** General Liability Insurance issued by responsible insurance companies and in a form acceptable to the COUNTY, with combined single limits of not less than One Million Dollars (\$1,000,000) for Bodily Injury and Property Damage per occurrence.
2. **Automobile Liability Insurance:** Automobile Liability coverage shall be in the minimum amount of One Million Dollars (\$1,000,000) combined single limits for Bodily Injury and Property Damage per accident.
3. **Workers' Compensation Coverage:** Full and complete Workers' Compensation Coverage, as required by State of Florida law, shall be provided.
4. **Insurance Certificates:** KBB shall provide the COUNTY with Certificates(s) of Insurance on all the policies of insurance and renewals in a form(s) acceptable to the COUNTY. The General Liability Insurance and Auto Liability Insurance policies shall provide that the COUNTY is an additional insured. The COUNTY shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the COUNTY and licensed and authorized under the laws of the State of Florida.

SECTION-2 EFFECTIVE DATE, TERM AND RENEWAL

This Contract shall begin as of the date on which the last of the parties hereto executes this Contract and continue through 2025. At least ninety (90) days prior to the expiration of this Contract, a request for renewal must be made by the KBB Executive Director. The KBB Executive Director may also request the payment schedule increase up to three percent (3%) of the compensation provided for the immediately preceding contract term. The Director of Solid Waste shall have the authority to renew this Contract for an additional two (2) years and shall approve or deny the increase. Nothing in this language shall be construed to require renewal by the COUNTY.

SECTION-3 DEFAULT

In the event of default by either party to this Contract in the performance of any of the obligations hereunder, the defaulting party shall be given written notice by certified mail of the other party's intent to terminate this Contract if the default is not cured within thirty (30) days of receipt of the notice, and such other party shall have the right to terminate this Contract if such default is not cured within such 30-day period.

SECTION-4 TERMINATION

If either Party fails or refuses to perform any of the Contract provisions Contract or otherwise fails to timely satisfy its provisions, either Party may notify the other Party in writing of the nonperformance and terminate the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. KBB may cancel the Contract, for good cause, upon ninety (90) days prior written notice to the COUNTY. COUNTY retains the right to terminate the Contract, in part or in its entirety, with or without cause upon thirty (30) days prior written notice. Any work completed or services provided prior to the date of termination shall, at the option of the COUNTY, become the property of the COUNTY. The COUNTY is only responsible for payment for work completed prior to the effective date of termination.

SECTION-5 ENFORCEMENT

Each and every remedy herein conferred upon or reserved to the parties shall be cumulative and in addition to every other remedy existing at law or in equity or by statute or ordinance.

SECTION-6 FORCE MAJEURE

Each party shall be excused without cost or liability to the other, for failure or delay in performance of any obligation set forth in this Contract, except for payment obligations set forth above, by reason of a force majeure event. A party affected by a force majeure event shall give prompt written notice thereof to the other party.

SECTION-7 NOTICES

All notices and communication with respect to this Contract shall be in writing and sent to the following addresses:

FOR KEEP BREVARD BEAUTIFUL
KBB Executive Director
1620 Adamson Road
Cocoa, Florida 32926

FOR BREVARD COUNTY
Solid Waste Management Department Director
2725 Judge Fran Jamieson, Building A 118
Viera, Florida 32940

SECTION-8 WAIVER

No section or provision of this Contract shall be deemed to have been waived unless such waiver shall be in writing and signed by both parties. The failure of either party to insist upon the strict performance of this Contract, or the failure of either party to exercise any right, option, or remedy herein contained, shall not be construed as a waiver of any right, option or remedy wither party may have under this Contract or as a waiver of a subsequent breach thereof.

SECTION-9 GOVERNING LAW, VENUE, ATTORNEY'S FEES

In the event of any legal action to enforce the terms of this Contract, each Party shall bear its own attorney's fees and costs. This Contract shall be governed, interpreted and construed according to the laws of the State of Florida. Venue shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury.

SECTION-10 COMPLETE CONTRACT, MODIFICATIONS TO CONTRACT, AND ASSIGNMENTS

This Contract constitutes the entire Contract between the COUNTY and KBB and supersedes all prior written or oral understandings. This Contract may only be amended, supplemented or canceled by a written instrument duly executed by all Parties. KBB may not assign this Contract to another entity without the express written permission of the COUNTY. This Contract may only be extended, supplemented or canceled by a written instruction duly executed by the parties hereto.

SECTION-11 HEADINGS

The section headings in this Contract are for convenience and reference only and in no way defined or limit the scope or content of this Contract or in any way affect its provisions.

SECTION-12 COMPLIANCE WITH LAW

It is KBB's responsibility to be aware of and comply with all federal, state, and local laws, rules, regulations, licensing requirements or standards that govern or apply to KBB's duties and obligations under this Contract.

SECTION-13 RIGHT TO AUDIT RECORDS

KBB shall keep books, records, and accounts of all Contract activities, in compliance with generally accepted accounting procedures, as adopted by the Department of Financial Services, as set forth in Rule 691-61.0012, Florida Administrative Code, as amended or superseded from time to time, or the Auditor General. Books, records, and

accounts related to Contract performance shall be open to inspection during regular business hours by an authorized office representative and shall be retained by KBB for a period of three (3) years after Contract termination for accounting related records and for other public records, five (5) years after termination of this Contract, or for any longer periods of time as may be required by applicable retention schedules. All books, records, and accounts related to the performance of this Contract shall be subject to the applicable provisions of Chapter 119 and Section 401.30, Florida Statutes.

SECTION-14 PUBLIC RECORDS

KBB understands Florida has very broad public records laws. KBB agrees to comply with any request for this public records or documents related to this Contract, in accordance with Section 119.07, Florida Statutes. Upon such a request, the COUNTY or KBB, as the case may be, will promptly inform the other Party of the request and, upon request of the other Party, provide electronic copies of the responsive public records provided, at no additional cost to the COUNTY or KBB, as the case may be. KBB agrees and understands any written communications with KBB, to include emails, email addresses, a copy of this contract, and any supporting Contract documentation are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute.

IF KBB HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT BREVARD COUNTY, MS. MANDY GUPPENBERGER, MIRANDA.GUPPENBERGER@BREVARDFL.GOV, 2725 JUDGE FRAN JAMIESON WAY, A 118, VIERA, FLORIDA 32940.

SECTION-15 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

- (a) KBB shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by KBB during the term of the contract.
- (b) KBB shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract.
- (c) KBB agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of KBB's enrollment in the program. This includes maintaining a copy of proof of KBB's and any subcontractors' enrollment in the E-Verify Program.

- (d) Compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach of this Contract.
- (e) A CONTRACTOR who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E verify program, KBB hires or employs a person who is not eligible for employment.
- (f) Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

SECTION-16 EMPLOYMENT

KBB shall not engage the services of any person or persons now employed by the COUNTY, including any department, agency, board or commission, to provide services relating to this contract without COUNTY's written consent.

SECTION-17 ANNUAL ADJUSTMENT

The rate of compensation payable to KBB by the COUNTY and the monthly rates and charges KBB may charge for services as set forth in this Contract may be adjusted annually to reflect changes in the annual Consumer Price Index, for all Urban Consumers, South Region, all items-1982-84=100 base as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the period for changes in which the CPI will be measured from March to February. Any increase or decrease shall be capped at three percent (3%) per year over the term of the Contract. Any extension thereto will be capped at three percent (3%) per year over the term of the Contract. KBB shall provide the COUNTY in writing, no later than May 1st of each year, of increases or decreases based on the CPI as provided in this section. If KBB does not provide the COUNTY with notification of an increase or decrease in the CPI by the date stated, the COUNTY will determine whether an adjustment shall be made to the rates. Should the CPI be discontinued or substantially modified, then an alternate index shall be chosen by mutual Contract of the COUNTY and KBB.

SECTION-18 SEVERABILITY CLAUSE

In the event a court of competent jurisdiction determines any sentence, provision, paragraph or section of this Contract to be null and void, the remaining parts of this Contract shall continue in full force and effect as though such sentence, provision, paragraph or section had been omitted from said Contract.

SECTION-19 INTELLECTUAL PROPERTY

To the extent that a copyright attaches to Contract work produced, in whole or in part, for the benefit and use of the COUNTY under this Contract, the CONTRACTOR agrees it has given the COUNTY a royalty-free, world-wide, non-exclusive, irrevocable, unlimited license in the work, that may be sub-licensed or used in a derivative work as the COUNTY sees fit.

SECTION-20 ATTORNEY'S FEES

In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs.

SECTION-21 UNAUTHORIZED ALIEN WORKERS

The COUNTY will not intentionally award publicly funded contracts to any KBB who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in Section 274A(e) [8 U.S.C. 1324a] of the Immigration and Nationality Act "INA". The COUNTY shall consider the employment by KBB of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A of the INA shall be grounds for unilateral cancellation of the Contract by the COUNTY.

SECTION-22 PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted contractor list following a conviction for a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted contractor list.

SECTION-23 SCRUTINIZED COMPANIES

(a) KBB certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Contract at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if KBB, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Contract.

(b) If this Contract is for more than one million dollars, KBB certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately

terminate this Contract at its sole option if KBB, its affiliates, or its subcontractors are found to have submitted a false certification; or if KBB, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of this Contract.

(c) KBB agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

(d) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by its duly authorized representatives, effective as of the last date below.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

Scott Ellis, Clerk

Bryan Lober, Chairman

As approved the by the Board on May, 2020

SEAL

WITNESS:

KEEP BREVARD BEAUTIFUL, INC.

Signature

Bryan Bobbitt, Executive Director

Printed Name