

LEASE 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, the COUNTY is the owner, and or authorized administrator of certain improved real property in Brevard County located at 1620 Adamson Road, Cocoa, containing approximately 1.5 acres, hereinafter referred to as "The Property", described as the North ½ of the SE ¼ of the NE ¼ of the NE 1/4, less the East 75 feet of Section 21, Township 24 South, Range 35 East, Brevard County, Florida, less the South 30 feet for the road, utility and drainage rights of way; and

WHEREAS, KBB desires to lease The Property for the purposes of supporting the Solid Waste Management Department in litter prevention, recycling education and state mandated goals.

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

- A. 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 Director of Solid Waste shall have the authority to renew this Contract for an additional two (2) years. Nothing in this language shall be construed to require renewal by the COUNTY.
- B. Use of Property.** The COUNTY hereby agrees to lease to KBB The Property for the purpose of supporting the Solid Waste Management Department in its contractual obligations with KBB and the KBB mission, subject to the following terms and conditions.
1. Use of The Property shall be in accordance with all applicable laws, rules and regulations.
 2. KBB shall be responsible for daily maintenance of The Property for the purpose of supporting the Solid Waste Department's goals for recycling education and litter control. All improvements or alterations to The Property will be subject to review and approval by the COUNTY as described in **C. Improvements** below.
 3. KBB will retain title to all personal property purchased by KBB and placed at The Property, unless otherwise agreed to by both parties.
 4. KBB shall not keep any pets on The Property.
 5. KBB shall not make any unlawful, immoral, improper or offensive use of The Property nor allow The Property to be utilized for any purpose other than that set forth herein. Failure of KBB to comply with this provision shall be considered a material breach of the Contract and subject same to termination by the

COUNTY, whereupon the COUNTY shall be entitled to re-enter and retake possession of The Property and terminate the Contract. KBB shall have thirty (30) days from receipt of a "Notice of Violation" from the COUNTY to correct any deficiencies.

6. KBB shall pay the COUNTY a sum of \$1.00 per year for the use of The Property.
- C. Improvements.** The plans, specifications and location for all improvements, structures, landscaping and facilities proposed to be made by KBB to The Property exceeding \$1,000 shall be submitted to and approved by the Brevard County Solid Waste Management Director or designee, prior to the construction or installation of such improvement, structure, landscaping or facility. KBB shall be responsible for obtaining any necessary permits (including payment of any costs incurred in obtaining any permit) for such improvements, structures, landscaping, etc.
- D. Compliance with Statutes.** KBB shall comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state and federal governmental bodies applicable to premises, recreational facility and any improvements, structures or facilities placed, installed or constructed thereon, including, but not limited to, all rules and regulations relating to the operation and maintenance of The Property.
- E. Repairs and Maintenance.** It is hereby agreed and understood that the cost of maintaining and repairing The Property and facilities as set out in the Contract shall be the responsibility of KBB. The exception is the monthly pest control provided for under the County's Facilities Department contract.
- 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.

H. Right of Entry by County. The COUNTY or its agents may at any time enter in and on The Property for the purpose of inspection of the same or performing such other duties are required by the terms of the Contract and rules regulations, ordinances and laws of any governmental body.

I. Covenants against Assignment and Subletting. KBB, its successors or assigns, shall not assign any portion of this Contract nor allow same to be assigned.

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

K. Termination. This Contract may be terminated by either party upon ninety (90) days written notice to the other party. Upon termination of this Contract KBB shall have ninety (90) days within which to remove any personal property. Any property not removed within said (90) day period shall become the property of the COUNTY.

L. 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.

M. 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.

N. 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 Dept. Director
2725 Judge Fran Jamieson, Building A 118
Viera, Florida 32940**

O. 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.

P. 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.

Q. 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.

R. 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.

S. 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 five (5) years after Contract termination, 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.

- T. 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.

- U. 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.

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, Chair

As approved the by the Board on May, 2020

SEAL

WITNESS:

KEEP BREVARD BEAUTIFUL, INC.

Signature

Bryan Bobbitt, Executive Director

Printed Name