

**MAINTENANCE, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

**THIS MAINTENANCE, INDEMNIFICATION and HOLD HARMLESS AGREEMENT** (“Agreement”) is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2024 between the City of Bradenton Beach, a Florida municipal corporation with a principal address of 107 Gulf Drive North, Bradenton Beach, Florida 34217 (“City”), and \_\_\_\_\_, a \_\_\_\_\_ registered and authorized to do business in the State of Florida, having its principal business office at \_\_\_\_\_ (“Sponsor”). The City and Sponsor shall collectively be referred to as the “Parties”, and each may individually be referred to as a “Party”.

**WHEREAS**, the City of Bradenton Beach Community Redevelopment Agency (“CRA”),, has approved a CRA beautification project on Bridge Street to be installed at a cost not to exceed \$\_\_\_\_\_ to be paid for by the CRA and \$\_\_\_\_\_ to be paid for by the Sponsor. All trees installed in this beautification project on Bridge Street shall be maintained at the sole cost of Sponsor; and

**WHEREAS**, the City desires to grant Sponsor permission to install and maintain the landscaping on public property.

**NOW THEREFORE**, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

1. The City grants permission to \_\_\_\_\_ (“Sponsor”) to install and maintain landscaping and other related amenities on the City’s public property and/or right-of-way as shown on the site plan attached as Exhibit “A” and maintain the installation of any and all coconut palms in accordance with the Guidance for Management of Coconut Palms attached as Exhibit “B”.
2. Neither Sponsor, nor the permitted installation shall hinder, impeded, or deter public use of the public right-of-way. Sponsor will, on City’s written request, promptly remove or modify any improvements that interfere with the use of the public right-of-way.
3. This Agreement shall commence on \_\_\_\_\_ and shall continue for thirty (30) years, until terminated by the City. The City shall have the option to renew the Agreement for successive terms of ten (10) years.
4. Sponsor shall apply for and obtain any and all required permits, entitlements, and/or environmental approvals.
5. Sponsor shall at its sole cost and expense, maintain the permitted installation in good condition. The City makes no warranties or representation of any kind regarding the suitability of this public property/right-of-way location for the proposed installation.

6. Should the Director of Public Works determine, in his exclusive and sole discretion, that Sponsor is not maintaining the permitted installation in good condition as set forth in Paragraph 4 of this Agreement, or that some part of the permitted installation hinders, impedes, or otherwise deters free movement in the public right-of-way or property, the City may conduct any required maintenance or removal as necessary to bring the area back to satisfactory condition and/or may remove any such impediment and charge any expense incurred, including labor and material, to the Sponsor, provided the City gives Sponsor notice of the condition and a reasonable opportunity to cure. Failure to notify the Sponsor of maintenance issues shall not relieve Sponsor of any liability under this Agreement.
7. As consideration for use of the City's public property to install coconut palm trees, the Sponsor shall at all times at its expense, pay on behalf of, hold harmless and indemnify the City, its officers, employees, agents, elected and appointed officials and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, liens, liabilities, penalties, fines, fees, judgments, losses and damages (collectively, "Claims"), whether or not a lawsuit is filed, including, but not limited to Claims for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any persons or entities; and costs, expenses and attorneys' and experts' fees at trial and on appeal, which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly:

(i) The performance of this Agreement (including any amendments thereto) by Contractor, its employees, agents, representatives or subcontractors; or (ii) The failure of Contractor, its employees, agents, representatives or subcontractors to comply and conform with applicable Laws (as defined herein); or (iii) Any negligent act or omission of the Contractor, its employees, agents, representatives, or subcontractors, **whether or not such negligence is claimed to be either solely that of the Contractor, its employees, agents, representatives or subcontractors, or to be in conjunction with the claimed negligence of others, including that of any of the Indemnified Parties;** or (iv ) Any reckless or intentional wrongful act or omission of the Contractor, its employees, agents, representatives, or subcontractors; or (v) Contractor's failure to maintain, preserve, retain, produce, or protect records in accordance with this Agreement and applicable Laws (including but not limited to Florida laws regarding public records).

The provisions of this paragraph are independent of, and will not be limited by, any insurance required to be obtained by Contractor pursuant to this Agreement or otherwise obtained by Contractor, and the provisions of this paragraph survive the expiration or earlier termination of this Agreement with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

To the extent, the City and Sponsor have executed any other legal documents, this Maintenance, Hold Harmless and Indemnification Agreement will supplement, and where in conflict, supersede any contracts, leases, franchise agreement, concessionaire agreement, and any other legal instrument while all remaining terms and conditions shall remain in effect.

8. City shall not be responsible or liable in any way for Sponsor's permitted installation or for Sponsor's loss by theft, fire, flood, wind, hurricane, burglary, vandalism, or any other cause whatsoever.
9. Should City revoke or terminate this Agreement as a result of future development or roadway improvements by the City, or for any other reason whatsoever, Sponsor shall not be entitled to any relocation benefits or other compensation from the City due to such revocation or termination.
10. Sponsor acknowledges that, by this Agreement, they do not acquire any right, title or interest of any kind in the public property or right-of-way on which the permitted installation is installed. The obligations hereunder shall run with the land and shall be binding upon any successor or future owner, heir, executor, or assign of \_\_\_\_\_.
11. Any notice under this Agreement shall be in writing. If to the City, Attn: City Clerk, 107 Gulf Drive North, Bradenton Beach, Florida 34217 with copy via email to [tsanclemente@cityofbradentonbeach.com](mailto:tsanclemente@cityofbradentonbeach.com). If to Sponsor:

INTENTIONALLY LEFT BLANK

12. This Agreement shall never be construed as a grant by the City of any right to permanently use or occupy all or any portion of the public property or right-of-way nor shall it ever be construed as a waiver on the part of the City, or as an estoppel against it, which would in any manner whatsoever bar or limit, or otherwise prejudice City's right to at any time whatsoever require a discontinuance of the use or occupancy of all or any part of the public property or right-of-way, the removal therefrom of all or any obstruction erected or maintained under this Agreement and as the restoration of such public property or right-of-way to a clean condition, all at the sole cost and expense of the Sponsor.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

**Sponsor**

\_\_\_\_\_.

**a** \_\_\_\_\_

**By:** \_\_\_\_\_

**Print:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**CITY OF BRADENTON BEACH,  
a Municipal Corporation of the State of Florida**

**ATTEST:**

\_\_\_\_\_  
**Signature**

**By:** \_\_\_\_\_  
**John Chappie**  
**Its: Mayor of the City of Bradenton Beach**

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

**EXHIBIT A (SITE PLAN)**

## **EXHIBIT B**

### **Guidelines for the Management of Coconut Palms**

Coconut palms (*Cocos nucifera*) are a significant palm throughout tropical regions around the world. These palms can reach over 100' in height and may live over 100 years. They regularly shed coconuts and large fronds, which may expose people and property to injury and damage. To minimize this risk, coconuts and fronds must be regularly removed prior to their fall. In certain instances, coconut palms may possess structural defects that increase the risk of failure of a portion or all of the palm.

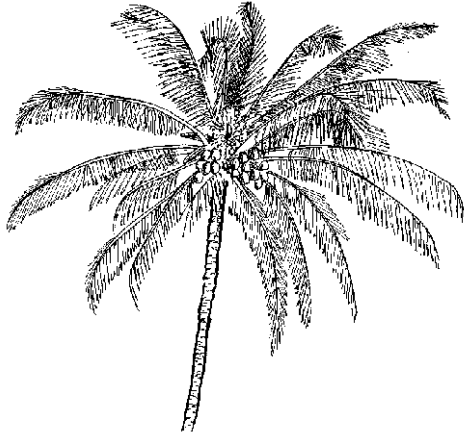
The City of Bradenton Beach hereby provides mandatory guidance for arborists, tree workers and property owners/managers in the proper pruning and general assessment of coconut palms. When caring for coconut palms, the safety of people and property is our greatest priority.

Pruning is required a minimum of two times per year on municipal property and within rights-of-way areas to manage the hazards of falling coconuts and fronds and to minimize risk to persons and property within the fall zone.

In order to ensure safe, healthy and attractive palms that can achieve a maximum life-span within a specific site, we require that the tree worker who is pruning the palm:

1. Provide the City of Bradenton Beach a written report at the time of each trimming identifying any abnormal conditions in the crown, trunk, or base of the palm. This may be accomplished by sending the report to [twoodard@cityofbradentonbeach.com](mailto:twoodard@cityofbradentonbeach.com);
2. Remove fronds, fruit, seedpods and fruit stalks carefully without damaging the trunk or fronds that are to be retained. All coconut fruit must be removed once it produces on the tree;
3. Remove lower fronds where any part of the frond hangs below a horizontal plane if desired. (see Figure 1);
4. Not remove live, healthy fronds above horizontal except where encroaching on utilities or structures (see Figure 2);
5. Not embed the cutting tool into the trunk or fronds that will remain on the coconut palm;
6. Avoid the use of spikes where practical. In most instances, damage from repeated spike use is primarily cosmetic, but structural defects may develop over time; and
7. Any coconut palm evidencing serious defects/conditions or damaged from cold temperatures, flooding, or wind shall be removed within fourteen (14) days' notice from the City.

**Figure 1**



**Figure 2**

