

PROPOSED

RESOLUTION NO. 2019-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, APPROVING THE ALLOCATION OF \$23,000 TO THE CITY OF WILTON MANORS FROM THE SAFE PARKS AND LAND PRESERVATION BOND PROGRAM FUNDS ("PARK BOND FUNDS"); APPROVING THE ALLOCATION OF \$35,000 TO THE TOWN OF DAVIE FROM THE PARK BOND FUNDS; APPROVING THE AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF WILTON MANORS FOR GRANT FUNDS TO FINANCE PARK IMPROVEMENTS AT JAYCEE PARK; APPROVING THE AGREEMENT BETWEEN BROWARD COUNTY AND TOWN OF DAVIE FOR GRANT FUNDS TO FINANCE PLAYGROUND EQUIPMENT AT EAST DAVIE NATURE PARK; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Tim Ryan)

WHEREAS, the 2000 Broward County Safe Parks and Land Preservation Bond Program ("Park Bond Program") provides funds that may be allocated and distributed to municipalities to benefit municipal parks and recreation systems within the geographic boundaries of Broward County;

WHEREAS, Commissioner Ryan desires to allocate the Fifty-eight Thousand Dollars (\$58,000) from the discretionary funds allotted to District 7 (the "District") through the Park Bond Program ("Grant Funds") to help fund projects within the District;

WHEREAS, Broward County ("County") and the City of Wilton Manors desire to enter into an agreement to allocate Twenty-three Thousand Dollars (\$23,000) of the Grant Funds to the City of Wilton Manors to help finance park improvements at Jaycee Park in Wilton Manors, Florida;

1 WHEREAS, on February 12, 2019, the City Commission of the City of Wilton
2 Manors adopted Resolution 2019-010, which approved and authorized the execution of
3 the Agreement between Broward County and City of Wilton Manors for Grant Funds to
4 Finance Park Improvements at Jaycee Park (“Wilton Manors Agreement”), attached
5 hereto and made a part hereof as Attachment 1;

6 WHEREAS, the County and the Town of Davie desire to enter into an agreement
7 to allocate Thirty-five Thousand Dollars (\$35,000) of the Grant Funds to the Town of Davie
8 to help finance playground equipment at East Davie Nature Park in Davie, Florida;

9 WHEREAS, on February 20, 2019, the Town Council of the Town of Davie adopted
10 Resolution 2019-058, which approved and authorized the execution of the Agreement
11 between Broward County and Town of Davie for Grant Funds to Finance Playground
12 Equipment at East Davie Nature Park (“Davie Agreement”), attached hereto and made a
13 part hereof as Attachment 2; and

14 WHEREAS, the Board of County Commissioners of Broward County, Florida (the
15 “Board”), has determined that allocating the Grant Funds to the City of Wilton Manors and
16 the Town of Davie, and approving the execution of the Wilton Manors Agreement and the
17 Davie Agreement, serve a public purpose and are in the best interest of the County, NOW,
18 THEREFORE,

19
20 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
21 BROWARD COUNTY, FLORIDA:

22
23 Section 1. The recitals set forth in the preamble to this Resolution are true,
24 accurate, and incorporated by reference herein as though set forth in full hereunder.

1 Section 2. The Board hereby approves the allocation of \$23,000 of the Grant
2 Funds to the City of Wilton Manors to help finance park improvements at Jaycee Park in
3 Wilton Manors, Florida.

4
5 Section 3. The Board hereby approves the allocation of \$35,000 of the Grant
6 Funds to the Town of Davie to help finance playground equipment at East Davie Nature
7 Park in Davie, Florida.

8
9 Section 4. The Board hereby approves and authorizes the Mayor or Vice-Mayor
10 to execute the Wilton Manors Agreement, attached hereto as Attachment 1, and the
11 County Administrator to attest to the execution.

12
13 Section 5. The Board hereby approves and authorizes the Mayor or Vice-Mayor
14 to execute the Davie Agreement, attached hereto as Attachment 2, and the County
15 Administrator to attest to the execution.

16
17 Section 6. Severability.

18 If any portion of this Resolution is determined by any court to be invalid, the invalid
19 portion will be stricken, and such striking will not affect the validity of the remainder of this
20 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
21 legally applied to any individual, group, entity, property, or circumstance, such
22 determination will not affect the applicability of this Resolution to any other individual,
23 group, entity, property, or circumstance.

1 Section 7. Effective Date.

2 This Resolution is effective upon adoption.

3
4 ADOPTED this _____ day of _____, 2019.

5
6 By /s/ Irma Qureshi 02/20/19
7 Irma Qureshi (date)
8 Assistant County Attorney

PROPOSED

9 By /s/ Annika Ashton 02/20/19
10 Annika E. Ashton (date)
11 Senior Assistant County Attorney

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22 IQ/mdw
23 02/20/19
24 Resolution Approving Grant Agreements - Jaycee Park and E. Davie Nature Park.doc
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**AGREEMENT
BETWEEN
BROWARD COUNTY
AND
CITY OF WILTON MANORS
FOR
GRANT FUNDS TO FINANCE PARK IMPROVEMENTS AT JAYCEE PARK**

This Agreement ("Agreement") between Broward County, a political subdivision of the State of Florida, whose address is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 ("County"), and City of Wilton Manors, a Florida municipal corporation, whose address is 2020 Wilton Drive, Wilton Manors, Florida 33305 ("City"), is entered into and effective as of the date this Agreement is fully executed by the Parties ("Effective Date"). County and City are hereinafter referred to collectively as the "Parties," and individually referred to as a "Party."

RECITALS

The 2000 Broward County Safe Parks and Land Preservation Bond Program provides for funds that may be allocated and distributed to municipalities to benefit municipal parks and recreation systems within the geographic boundaries of Broward County ("Park Bond Program").

The Board of County Commissioners of Broward County, Florida ("Board"), at a regular commission meeting held on _____, approved the allocation and distribution of TWENTY THREE THOUSAND DOLLARS (\$23,000.00) to the City from the Park Bond Program to help finance park improvements at Jaycee Park in the City of Wilton Manors, Florida.

The Parties desire to enter this Agreement for the purpose of allocating and disbursing the Grant Funds in accordance with the terms hereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The recitals set forth above are true, accurate, and fully incorporated by reference herein.

2. **Description of Property.** City is the owner of Jaycee Park in the City of Wilton Manors, Florida, as more particularly described in **Exhibit A**, attached to and made a part of this Agreement ("Property").

3. **Term.** The term of this Agreement shall be effective for one (1) year commencing on the Effective Date ("Initial Term"). The Parties shall have the option to renew the Agreement for up to one (1) successive six (6) month term upon the same terms and conditions of this Agreement ("Renewal Term"). The Renewal Term option shall be exercised by City sending written notice to County, at least thirty (30) calendar days before the expiration of the Initial Term, and County, through its Contract Administrator (as defined herein), acknowledging the Renewal Term. The Initial Term, and the Renewal Term if exercised, are collectively referred to herein as the "Term."

4. **Grant Funds.**

4.1 County shall pay the City, in accordance with Section 4.6, an amount up to, but not exceeding, TWENTY THREE THOUSAND DOLLARS (\$23,000.00) from the Park Bond Program (the "Grant Funds").

4.2 City shall comply with the requirements of the Park Bond Program identified in **Exhibit B** ("Bond Requirements"). City shall use the Grant Funds to fund park improvements at the Property ("Funded Items"), as specified in **Exhibits B and B-1**. The Contract Administrator may approve changes to the Funded Items listed for the Property in **Exhibit B-1**, as long as the total amount of Grant Funds is not exceeded.

4.3 City shall not use Grant Funds for (i) architectural or engineering costs exceeding twelve percent (12%) of the Grant Funds; (ii) the City's administrative costs in overseeing or managing the Property; and (iii) recreation programming or operational costs.

4.4 City shall dedicate the Funded Items, when completed, for public recreational uses for a minimum of twenty-five (25) years ("Dedication Period"). City shall record such dedication, in the form attached hereto as **Exhibit C**, in the Public Records of Broward County, Florida, pursuant to Section 28.222, Florida Statutes.

4.5 If the City ceases to use the Funded Items for public recreational uses during the Dedication Period, County shall give a written demand to City for repayment of all Grant Funds. City shall repay all Grant Funds to County as specified in Section 9.

4.6 **Billing and Payments.**

4.6.1 City shall submit to County a monthly invoice, certified by an authorized City official, to be reimbursed for the actual costs of the Funded Items ("Invoice(s)"). An Invoice may only be submitted after the work reflected on such Invoice has been completed. Invoices must be submitted with an original Invoice plus a copy within fifteen (15) calendar days of the end of the month, except the final

Invoice must be submitted within sixty (60) calendar days after the expiration or earlier termination of this Agreement.

4.6.2 Invoices shall designate the nature of the work performed and, as applicable, the personnel, hours, tasks, or any other details requested by the Contract Administrator. Additionally, the documentation required in **Exhibit B** must accompany every Invoice.

4.6.3 County shall pay the City via wire transfer within thirty (30) calendar days after receiving an Invoice. Payment may be withheld if the City fails to comply with a term, condition, or requirement of this Agreement. County shall reject an improper Invoice and provide written notice to City regarding the necessary corrective action within thirty (30) calendar days after receiving the Invoice.

4.6.4 County may withhold or recoup Grant Funds for (i) fraud or misrepresentation in connection with this Agreement; (ii) incomplete or defective construction of all or a portion of the Funded Items, which has not been remedied or resolved to the Contract Administrator's satisfaction; or (iii) noncompliance with the Bond Requirements. County shall provide written notice to City explaining the claim for withholding or recouping the Grant Funds and detailing the necessary corrective action. City shall have thirty (30) calendar days to cure such claim, to the extent such claim is curable. Any Grant Funds withheld under this Section 4.6.4 shall not be subject to payment of interest by County.

5. **Indemnification.** To the extent permitted by law, and without either Party waiving its sovereign immunity or any limits established by Section 768.28, Florida Statutes, City shall indemnify, hold harmless, and defend County and all of County's officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of City, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). In the event any Claim is brought against an Indemnified Party, City shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party.

6. **Insurance.** City is a state agency as defined by Section 768.28, Florida Statutes, and City shall furnish the Contract Administrator with written verification of liability protection in accordance with Florida law prior to final execution of this Agreement.

7. **Termination.** County may terminate this Agreement if City has not corrected a breach within thirty (30) calendar days after receiving written notice from County identifying said breach. For the purposes of this Agreement, "breach" as used in the foregoing sentence shall include, but is not limited to, the negligent or intentional submission of false or incorrect Invoices, failure to suitably perform or complete the Funded Items, abandonment or discontinuance of the Funded Items, misuse of Grant Funds, fraud or misrepresentation in connection with this Agreement, or noncompliance with the Bond Requirements identified in **Exhibit B**. Notice of termination shall be provided in accordance with the "Notices" Section of this Agreement.

8. **Financial Statements.**

8.1 City shall annually provide to County the "Single Audit Report" prepared by an independent certified public accountant showing that there are sufficient and acceptable internal controls over the administration of the City's grants. The Single Audit Report will encompass the controls over grants in general without reference to any specific grant award. The Single Audit Report shall be provided to County within forty-five (45) calendar days after it is received by City.

8.2 **Schedule.**

8.2.1 City shall provide, within one hundred twenty (120) calendar days after the expiration or earlier termination of this Agreement, the Contract Administrator with a schedule of revenues and expenditures accounting for the Funded Items during all of the City's fiscal years for which Grant Funds were provided ("Schedule"). The Schedule shall include (i) all revenues relating to the Funded Items classified by the source of the revenues, and (ii) all expenditures relating to the Funded Items classified by the type of expenditures.

8.2.2 The Schedule shall be prepared by the City's Finance Director, in a form acceptable to the County Auditor. A transmittal letter, signed by the City's Finance Director, must accompany the Schedule and shall include: (i) the statement, "No Grant Funds, including interest earned on such funds, are due back to the County" or, a listing of Grant Funds, including interest earned on such funds, which are due back to County; and (ii) an opinion or finding as to whether the Grant Funds received by City have been expended in accordance with this Agreement.

8.2.3 County may request, in writing, corrections to the Schedule. City shall make such corrections and submit the corrected Schedule to County within sixty (60) calendar days after the receipt of County's request.

8.2.4 In the event City fails to provide the Schedule within the timeframe specified in Section 8.2.1, County may request, in writing, repayment of all or any portion of the Grant Funds.

8.3 Failure of City to meet the financial reporting requirements of Section 8 shall result in the suspension of any payment due under this Agreement or any other grant agreement in effect, and disqualify City from obtaining future grant awards until the Single Audit Report or Schedule is received and accepted by County.

8.4 City shall repay any and all Grant Funds not used in strict compliance with this Agreement.

9. **Repayment or Recoupment.** If County demands repayment or recoupment of Grant Funds pursuant to Sections 4.5, 4.6.4, 8.2.4, or 8.4, City shall remit said funds to County within sixty (60) calendar days after receiving written notice from County regarding repayment or recoupment. If the Grant Funds are not repaid within the sixty-day period, County may (i) deduct the amount of the unrepaid Grant Funds from any payments owed by the County to the City under any contract, agreement, or County program; and (2) deny any pending or future requests from the City for funding under any County program.

10. **Audit Rights and Retention of Records.**

10.1 County shall have the right to audit the books, records, and accounts of City, its agents, contractors, subcontractors, and suppliers ("Agents") that are related to this Agreement. City and its Agents shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of City and its Agents shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, City or its Agents, as applicable, shall make same available in written form at no cost to County.

10.2 City and its Agents shall preserve and make available, at reasonable times within Broward County, for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or earlier termination of this Agreement or until resolution of any audit findings, whichever is longer ("Audit Period"). County audits and inspections pursuant to this Section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at City's place of

business, if deemed appropriate by County, with seventy-two (72) hours advance notice.

10.3 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with Section 10 discloses overpricing or overcharges to County of any nature by City in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of the County's audit shall be reimbursed to the County by the City in addition to making adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) calendar days from presentation of County's findings to City.

10.4 City shall ensure that the requirements of Section 10 are included in all agreements with its Agents that are related to this Agreement.

11. **Truth-in-Negotiation Representation.** The payment of Grant Funds to City 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.

12. **Third Party Beneficiaries.** The Parties do not intend 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.

13. **Notices.** For a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this Section.

NOTICE TO COUNTY:
County Administrator
Broward County Governmental Center, Room 409
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email Address: bhenry@broward.org

With a copy to:
Paul Krashefski
Environmental Planning and Community Resilience Division
Broward County Governmental Center, Room 329-H
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email Address: pkrashefski@broward.org

NOTICE TO CITY:
Patrick Cann, Leisure Services Director
City of Wilton Manors
2020 Wilton Drive
Wilton Manors, FL 33305
pcann@wiltonmanors.com

14. **Assignment and Performance.** Neither this Agreement nor any right or interest herein may be assigned, transferred, or encumbered without the prior written consent of the other Party. For County, such written consent may only be given by action of its Board.

15. **Independent Contractor.** City is an independent contractor under this Agreement. In taking any action or performing any obligation under this Agreement, neither City nor its Agents shall act as officers, employees, or agents of County. No partnership, joint venture, or other joint relationship is created hereby. City shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

16. **EEO Compliance.** City shall not unlawfully 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, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work relating to this Agreement, and shall not otherwise unlawfully discriminate in violation of Chapter 16½, Broward County Code of Ordinances. City shall comply with the Americans with Disabilities Act in the course of providing any services funded by County. City shall include the foregoing or similar language in all agreements with its Agents performing work or services related to this Agreement. Failure to comply with 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, Broward County Code of Ordinances, Broward County Administrative Code, or other applicable law, all such remedies being cumulative.

17. **Materiality and Waiver of Breach.** Each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. Either Party'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 of a provision of this Agreement 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.

18. **Compliance with Laws.** City shall comply with all applicable permits, regulations, ordinances, rules and laws of the State of Florida, the United States, any political subdivision, or agency of either in performing its duties, responsibilities, and obligations related to this Agreement.

19. **Severability.** In the event that any part of this Agreement is found to be invalid by a court of competent jurisdiction, that part shall be severed from this Agreement and the balance of this Agreement shall remain in full force and effect unless both Parties to elect to terminate the Agreement. The election to terminate this Agreement pursuant to this Section shall be made within ten (10) business days after the court's finding becomes final.

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

21. **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 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 of this Agreement, such reference is to the Section as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section.

22. **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 herein and any provisions of any Sections of this Agreement, the provisions contained in the Sections shall prevail and be given effect.

23. **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 Parties agree that 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 Parties agree that 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, THE PARTIES 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.

24. **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the Parties hereto, with the same formality and of equal dignity herewith.

25. **Prior Agreements.** This Agreement represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

26. **Payable Interest.**

26.1 County shall not be liable to pay any interest, whether as prejudgment interest or for any other purpose, to City. City waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

26.2 If the preceding subsection 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.

27. **Incorporation by Reference.** Attached **Exhibits A, B, B-1, C, D, and E** are incorporated into and made a part of this Agreement.

28. **Contract Administrator.** The "Contract Administrator," as referenced in this Agreement, shall be the County Administrator or his or her designee, as designated in writing. The County Administrator is defined as the administrative head of County pursuant to Sections 3.02 and 3.03 of the Broward County Charter.

29. **Representation of Authority.** Each individual executing this Agreement on behalf of a Party hereto hereby 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.

30. **Counterparts.** This Agreement may be executed in counterparts. Each executed counterpart will constitute an original document, and all of them, together, will constitute one and the same agreement. It shall not be necessary for every Party to sign each counterpart but only that each Party shall sign at least one such counterpart.

31. **Survival.** The following Sections and obligations shall survive the expiration or earlier termination of this Agreement: (i) Sections 4.5, 4.6.4, 8.2.4, 8.4, and 9 in connection with repayment or recoupment of Grant Funds; (ii) Section 5 pertaining to indemnification; (iii) Section 8.2 with regards to City providing a Schedule to County; and (iv) Section 10 in relation to County conducting audits during the Audit Period.

[The Remainder of this Page is 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 Mayor, duly authorized to execute same.

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 _____, 20____

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: [Signature] 2/20/19
Irma Qureshi (Date)
Assistant County Attorney

By: [Signature] 2/20/19
Annika E. Ashton (Date)
Senior Assistant County Attorney

IQ/mdw
1/24/18
Park Grant Agreement – Park Improvements at Jaycee Park
iManage #389847


**AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF WILTON MANORS
FOR GRANT FUNDS TO FINANCE PARK IMPROVEMENTS AT JAYCEE PARK.**

CITY

ATTEST:



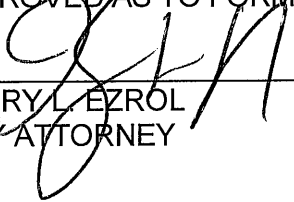
FAITH LOMBARDO
CITY CLERK

BY: 

JUSTIN S. FLIPPEN, MAYOR

(SEAL)

APPROVED AS TO FORM



KERRY L. EZROL
CITY ATTORNEY

EXHIBIT A

PROPERTY

Legal Description:

That certain parcel labeled "Park", lying South of NE 21st Court and West of Wilton Drive, in UNIT 1, WILTON MANORS, according to the Plat thereof, as recorded in Plat Book 9, Page 2 as amended in AMENDED PLAT OF UNIT 1, WILTON MANORS, according to the Plat thereof, as recorded in Plat Book 15, Page 1 of the Public Records of Broward County, Florida.

EXHIBIT B

FUNDED ITEMS AND BOND REQUIREMENTS

1. Description. The Funded Items shall consist of various park improvements for Jaycee Park, as more particularly described in **Exhibit B-1**.
 - A. City agrees to construct the Funded Items in accordance with the plans and specifications prepared by, or under the supervision and review of, a registered professional architect, engineer, or other appropriate professional.
 - B. City is responsible for obtaining all state, federal, and local permits, licenses, agreements, leases, easements, and other approvals required for the Funded Items, and for following applicable state, federal, and local statutory requirements regarding the procurement of professional services for the Funded Items.
 - C. City shall erect a permanent sign acceptable to the Contract Administrator identifying the Park Bond Program and County as a funding source of the Funded Items.
2. Required Documentation for Funded Items.
 - A. The Contract Administrator is responsible for ensuring performance of the terms and conditions and shall approve all payment requests prior to payment. Contract Administrator shall have the right, at all reasonable times and upon notice to the City, to enter the Property to examine and inspect the Funded Items. On a quarterly basis, and until the completion of the Funded Items, City shall submit a status report, in the form attached hereto as **Exhibit E**, to the Contract Administrator in order to summarize the work accomplished, problems encountered, percentage of completion, and other appropriate information regarding the Funded Items. Photographs shall be submitted when appropriate to reflect work accomplished. City shall furnish to the Contract Administrator a copy of its contract(s) for the Funded Items within fifteen (15) calendar days of full execution of same.
 - B. Upon completion of the Funded Items, the engineer, architect, or other appropriate professional shall sign a statement certifying satisfactory completion of the Funded Items in accordance with the prepared plans and specifications.
3. Bond Requirements. City's acceptance of Grant Funds is conditioned on compliance with the following requirements:

- A. All Grant Funds are to be paid on a reimbursement basis pursuant to the requirements of Section 4 of this Agreement.
- B. The Funded Items shall be open to the public, and all City residents and non-City residents shall have access to, and use of, the Funded Items on equal terms and conditions. Any rates, charges, or fees for use of the Funded Items must be uniform for City residents and non-City residents. Differential rate structures for access to, or use of, the Funded Items on the basis of residency or non-residency in the City is prohibited.
- C. The Property shall be owned by City or have a lease with a minimum term of twenty-five (25) years from completion of the Funded Items. Proof of such ownership or leasehold status is attached as **Exhibit D**.
- D. The Funded Items must be used, operated, and maintained for public park recreational uses for a minimum of twenty-five (25) years.
- E. City must provide a resolution from its governing board supporting the Funded Items and authorizing execution of this Agreement.
- F. The Funded Items shall be consistent with recognized park and recreational standards for similar facilities.

EXHIBIT B-1

City of Wilton Manors Jaycee Park Improvements
Nov-18

Item	Estimate
Design & Engineering	\$28,500.00
Site Preparation/Mobilization	\$30,000.00
Landscape/Hardscape Elements	\$61,500.00
Construction	\$46,500.00
Lighting & Electrical	\$75,000.00
TOTAL PROJECT	\$251,500.00

12% of \$23,00 County funds for
Design & Engineering | \$3,420.00 ||

88% of County funds for
Construction \$19,580.00

City and other funding \$228,500.00

EXHIBIT C

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF FLORIDA
COUNTY OF BROWARD

Pursuant to that certain Agreement between Broward County and City of Wilton Manors for Grant Funds to Finance Park Improvements at Jaycee Park ("Agreement"), dated _____, 20__, the City of Wilton Manors, a Florida municipal corporation, certifies ownership of the property described in **Exhibits A and D** of the attached Agreement and hereby dedicates, for use by the general public for a minimum of twenty-five (25) years from the date of execution hereof, the Funded Items described in **Exhibits B and B-1** of the attached Agreement.

IN WITNESS WHEREOF, the City of Wilton Manors has executed this Certificate of Ownership and Dedication on this _____ day of _____, 20__.

ATTEST:

BY: _____
JUSTIN S. FLIPPEN, MAYOR

FAITH LOMBARDO
CITY CLERK

(SEAL)

APPROVED AS TO FORM

KERRY L. EZROL
CITY ATTORNEY

EXHIBIT D

PROOF OF PROPERTY OWNERSHIP/LEASEHOLD

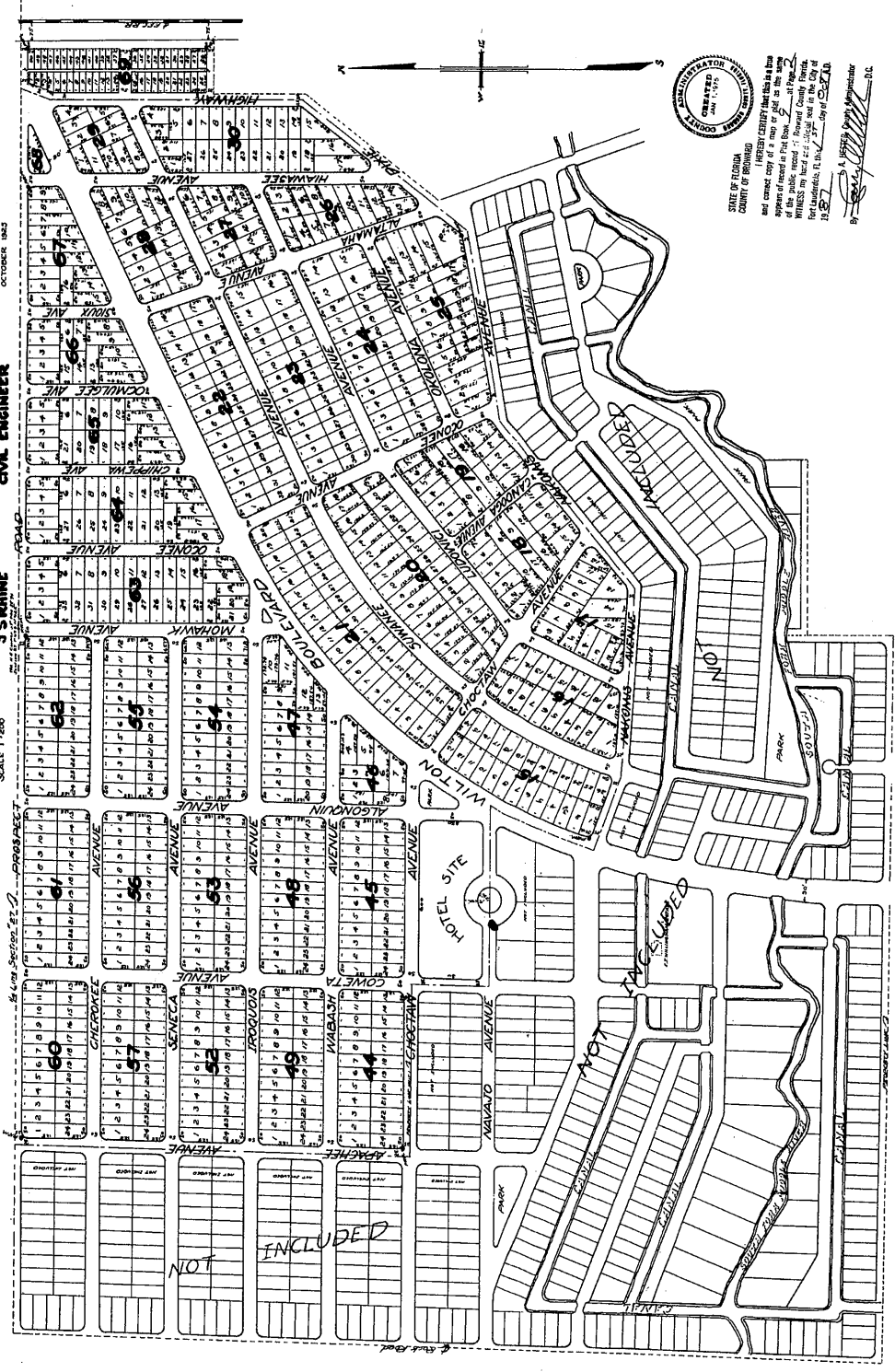
66545
9-2

WILTON MANORS

A SUBDIVISION IN
SECTIONS 26 & 27 T49S R42E
BROWARD CO. FLORIDA

E.J. WILLINGHAM DEVELOPMENT CO.

SCALE 1"=100' CIVIL ENGINEER OCTOBER 1932



STATE OF FLORIDA
COUNTY OF BROWARD
I, the undersigned, being duly qualified and sworn, do hereby certify that the within plat is a true and correct copy of the map or plan as filed in my office and that the same conform to the provisions of the Public Land Law of 1916.
1932

DESCRIPTION
SECTION 26
SECTION 27

STATE OF FLORIDA
COUNTY OF BROWARD
I, the undersigned, being duly qualified and sworn, do hereby certify that the within plat is a true and correct copy of the map or plan as filed in my office and that the same conform to the provisions of the Public Land Law of 1916.
1932

W. H. H. H. H.
W. H. H. H. H.

STATE OF FLORIDA
COUNTY OF BROWARD
I, the undersigned, being duly qualified and sworn, do hereby certify that the within plat is a true and correct copy of the map or plan as filed in my office and that the same conform to the provisions of the Public Land Law of 1916.
1932

STATE OF FLORIDA
COUNTY OF BROWARD
I, the undersigned, being duly qualified and sworn, do hereby certify that the within plat is a true and correct copy of the map or plan as filed in my office and that the same conform to the provisions of the Public Land Law of 1916.
1932

STATE OF FLORIDA
COUNTY OF BROWARD
I, the undersigned, being duly qualified and sworn, do hereby certify that the within plat is a true and correct copy of the map or plan as filed in my office and that the same conform to the provisions of the Public Land Law of 1916.
1932



STATE OF FLORIDA
COUNTY OF BROWARD
I, the undersigned, being duly qualified and sworn, do hereby certify that the within plat is a true and correct copy of the map or plan as filed in my office and that the same conform to the provisions of the Public Land Law of 1916.
1932

EXHIBIT E

STATUS REPORT OF FUNDED ITEMS AT JAYCEE PARK

Reporting Period: _____

Date Report Prepared: _____

Project Information:

Name of City	
Person Preparing the Report for City	
Job Title	
Funded Items Start-Up Date	
Expected Completion Date	

- 1. Describe the current status of the Funded Items, identify the tasks performed and work accomplished during the quarter, and attach photographs of same:**

- 2. Describe problems encountered and provide a detailed explanation of corrective action taken or to be taken:**

Problem:	Corrective Action:

3. Percentage of Funded Items completed to date _____%.

4. Other Relevant Information:

CERTIFICATION

I hereby certify that the information reported in this status report and all supporting documentation is correct, and that all tasks and activities were conducted in accordance with the Agreement between Broward County and City of Wilton Manors for Grant Funds to Finance Park Improvements at Jaycee Park.

Signature

Print Name

Job Title

**AGREEMENT
BETWEEN
BROWARD COUNTY
AND
TOWN OF DAVIE
FOR
GRANT FUNDS TO FINANCE
PLAYGROUND EQUIPMENT AT EAST DAVIE NATURE PARK**

This Agreement (“Agreement”) between Broward County, a political subdivision of the State of Florida, whose address is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 (“County”), and Town of Davie, a Florida municipal corporation, whose address is 6591 Orange Drive, Davie, Florida 33314 (“Town”), is entered into and effective as of the date this Agreement is fully executed by the Parties (“Effective Date”). The County and the Town are hereinafter referred to collectively as the “Parties,” and individually referred to as a “Party.”

RECITALS

The 2000 Broward County Safe Parks and Land Preservation Bond Program provides for funds that may be allocated and distributed to municipalities to benefit municipal parks and recreation systems within the geographic boundaries of Broward County, Florida (“Park Bond Program”).

The Board of County Commissioners of Broward County, Florida (“Board”), at a regular commission meeting held on _____, approved the allocation and distribution of THIRTY FIVE THOUSAND DOLLARS (\$35,000.00) to the Town from the Park Bond Program to help finance playground equipment at East Davie Nature Park in the Town of Davie, Florida.

The Parties desire to enter this Agreement for the purpose of allocating and disbursing the Grant Funds in accordance with the terms hereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The recitals set forth above are true, accurate, and fully incorporated by reference herein.
2. **Description of Property.** The Town is the owner of East Davie Nature Park in the Town of Davie, Florida, as more particularly described in **Exhibit A**, attached to and made a part of this Agreement (“Property”).

3. **Term.** The term of this Agreement shall be effective for one (1) year commencing on the Effective Date (“Initial Term”). The Parties shall have the option to renew the Agreement for up to one (1) successive six (6) month term upon the same terms and conditions of this Agreement (“Renewal Term”). The Renewal Term option shall be exercised by the Town sending written notice to the County, at least thirty (30) calendar days before the expiration of the Initial Term, and the County, through its Contract Administrator (as defined herein), acknowledging the Renewal Term. The Initial Term, and the Renewal Term if exercised, are collectively referred to herein as the “Term.”

4. **Grant Funds.**

4.1 The County shall pay the Town, in accordance with Section 4.6, an amount up to, but not exceeding, THIRTY FIVE THOUSAND DOLLARS (\$35,000.00) from the Park Bond Program (the “Grant Funds”).

4.2 The Town shall comply with the requirements of the Park Bond Program identified in **Exhibit B** (“Bond Requirements”). The Town shall use the Grant Funds to help fund playground equipment at the Property (“Funded Items”), as specified in **Exhibits B and B-1**. The Contract Administrator may approve changes to the Funded Items listed for the Property in **Exhibit B-1**, as long as the total amount of Grant Funds is not exceeded.

4.3 The Town shall not use Grant Funds for (i) architectural or engineering costs exceeding twelve percent (12%) of the Grant Funds; (ii) the Town’s administrative costs in overseeing or managing the Property; and (iii) recreation programming or operational costs.

4.4 The Town shall dedicate the Funded Items, when completed, for public recreational uses for a minimum of twenty-five (25) years (“Dedication Period”). The Town shall record such dedication, in the form attached hereto as **Exhibit C**, in the Public Records of Broward County, Florida, pursuant to Section 28.222, Florida Statutes.

4.5 If the Town ceases to use the Funded Items for public recreational uses during the Dedication Period, the County shall give a written demand to the Town for repayment of all Grant Funds. The Town shall repay all Grant Funds to the County as specified in Section 9.

4.6 **Billing and Payments.**

4.6.1 The Town shall submit to the County an invoice, certified by an authorized Town official, to be reimbursed for the actual costs of the Funded Items (“Invoice”). The Invoice may only be submitted after all work has been completed for the Funded Items, and such

completion must be reflected on the Invoice. The Town must submit an original Invoice plus a copy within thirty (30) calendar days after the Funded Items are completed.

4.6.2 The Invoice shall designate the nature of the work performed and, as applicable, the personnel, hours, tasks, or any other details requested by the Contract Administrator. Additionally, the documentation required in **Exhibit B** must accompany the Invoice.

4.6.3 The County shall pay the Town via wire transfer within thirty (30) calendar days after receiving the Invoice. Payment may be withheld if the Town fails to comply with a term, condition, or requirement of this Agreement. The County shall reject an improper Invoice and provide written notice to the Town regarding the necessary corrective action within thirty (30) calendar days after receiving the Invoice.

4.6.4 The County may withhold or recoup Grant Funds for (i) fraud or misrepresentation in connection with this Agreement; (ii) incomplete or defective construction of all or a portion of the Funded Items, which has not been remedied or resolved to the Contract Administrator's satisfaction; or (iii) noncompliance with the Bond Requirements. The County shall provide written notice to the Town explaining the claim for withholding or recouping the Grant Funds and detailing the necessary corrective action. The Town shall have thirty (30) calendar days to cure such claim, to the extent such claim is curable. Any Grant Funds withheld under this Section 4.6.4 shall not be subject to payment of interest by the County.

5. **Indemnification.** To the extent permitted by law, and without either Party waiving its sovereign immunity or any limits established by Section 768.28, Florida Statutes, the Town shall indemnify, hold harmless, and defend the County and all of the County's officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of the Town, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). In the event any Claim is brought against an Indemnified Party, the Town shall, upon written notice from the County, defend each Indemnified Party against each such Claim by counsel satisfactory to the County or, at the County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party.

6. **Insurance.** The Town is a state agency as defined by Section 768.28, Florida Statutes, and the Town shall furnish the Contract Administrator with written

verification of liability protection in accordance with Florida law prior to final execution of this Agreement.

7. **Termination.** The County may terminate this Agreement if the Town has not corrected a breach within thirty (30) calendar days after receiving written notice from the County identifying said breach. For the purposes of this Agreement, “breach” as used in the foregoing sentence shall include, but is not limited to, the negligent or intentional submission of a false or incorrect Invoice, failure to suitably perform or complete the Funded Items, abandonment or discontinuance of the Funded Items, misuse of Grant Funds, fraud or misrepresentation in connection with this Agreement, or noncompliance with the Bond Requirements identified in **Exhibit B**. Notice of termination shall be provided in accordance with the “Notices” Section of this Agreement.

8. **Financial Statements.**

8.1 For fiscal years in which the Town meets or exceeds applicable Single Audit requirement thresholds, the Town shall annually provide to the County the “Single Audit Report” prepared by an independent certified public accountant showing that there are sufficient and acceptable internal controls over the administration of the Town’s grants. The Single Audit Report will encompass the controls over grants in general without reference to any specific grant award. The Single Audit Report shall be provided to the County within forty-five (45) calendar days after it is received by the Town.

8.2 **Schedule.**

8.2.1 The Town shall provide, within one hundred twenty (120) calendar days after the expiration or earlier termination of this Agreement, the Contract Administrator with a schedule of revenues and expenditures accounting for the Funded Items during all of the Town’s fiscal years for which Grant Funds were provided (“Schedule”). The Schedule shall include (i) all revenues relating to the Funded Items classified by the source of the revenues, and (ii) all expenditures relating to the Funded Items classified by the type of expenditures.

8.2.2 The Schedule shall be prepared by the Town’s Finance Director, in a form acceptable to the County Auditor. A transmittal letter, signed by the Town’s Finance Director, must accompany the Schedule and shall include: (i) the statement, “No Grant Funds, including interest earned on such funds, are due back to the County” or, a listing of Grant Funds, including interest earned on such funds, which are due back to the County; and (ii) an opinion or finding as to whether the Grant Funds received by the Town have been expended in accordance with this Agreement.

8.2.3 The County may request, in writing, corrections to the Schedule. The Town shall make such corrections and submit the corrected Schedule to the County within sixty (60) calendar days after the receipt of the County's request.

8.2.4 In the event the Town fails to provide the Schedule within the timeframe specified in Section 8.2.1, the County may request, in writing, repayment of all or any portion of the Grant Funds.

8.3 Failure of the Town to meet the financial reporting requirements of Section 8 shall result in the suspension of any payment due under this Agreement or any other grant agreement in effect, and disqualify the Town from obtaining future grant awards until the Single Audit Report or Schedule is received and accepted by the County.

8.4 The Town shall repay any and all Grant Funds not used in strict compliance with this Agreement.

9. **Repayment or Recoupment.** If the County demands repayment or recoupment of Grant Funds pursuant to Sections 4.5, 4.6.4, 8.2.4, or 8.4, the Town shall remit said funds to the County within sixty (60) calendar days after receiving written notice from the County regarding repayment or recoupment. If the Grant Funds are not repaid within the sixty-day period, the County may (i) deduct the amount of the unrepaid Grant Funds from any payments owed by the County to the Town under any contract, agreement, or the County program; and (2) deny any pending or future requests from the Town for funding under any County program.

10. **Audit Rights and Retention of Records.**

10.1 The County shall have the right to audit the books, records, and accounts of the Town, its agents, contractors, subcontractors, and suppliers ("Agents") that are related to this Agreement. The Town and its Agents shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of the Town and its Agents shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, the Town or its Agents, as applicable, shall make same available in written form at no cost to the County.

10.2 The Town and its Agents shall preserve and make available, at reasonable times within Broward County, for examination and audit by the County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a

minimum period of three (3) years after expiration or earlier termination of this Agreement or until resolution of any audit findings, whichever is longer ("Audit Period"). The County audits and inspections pursuant to this Section may be performed by any County representative (including any outside representative engaged by the County). The County reserves the right to conduct such audit or review at the Town's place of business, if deemed appropriate by the County, with seventy-two (72) hours advance notice.

10.3 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with Section 10 discloses overpricing or overcharges to the County of any nature by the Town in excess of five percent (5%) of the total contract billings reviewed by the County, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Town in addition to making adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) calendar days from presentation of the County's findings to the Town.

10.4 The Town shall ensure that the requirements of Section 10 are included in all agreements with its Agents that are related to this Agreement.

11. **Truth-in-Negotiation Representation.** The payment of Grant Funds to the Town under this Agreement is based upon representations supplied to the County by the Town, and the Town certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. The County shall be entitled to recover any damages it incurs to the extent such representation is untrue.

12. **Third Party Beneficiaries.** The Parties do not intend 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.

13. **Notices.** For a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this Section.

NOTICE TO THE COUNTY:

County Administrator
Broward County Governmental Center, Room 409
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email Address: bhenry@broward.org

With a copy to:

Paul Krashefski
Environmental Planning and Community Resilience Division
Broward County Governmental Center, Room 329-H
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email Address: pkrashefski@broward.org

NOTICE TO THE TOWN:

Richard J. Lemack
Town Administrator
Davie Town Hall
6591 Orange Drive
Davie, Florida 33314
Email Address: Richard_Lemack@davie-fl.gov

With a copy to:

Jeff Pohlman
Parks, Recreation and Cultural Arts Department
3801 S. Pine Island Road
Davie, FL 33324
Email Address: Jeffrey_Pohlman@davie-fl.gov

14. **Assignment and Performance.** Neither this Agreement nor any right or interest herein may be assigned, transferred, or encumbered without the prior written consent of the other Party. For the County, such written consent may only be given by action of its Board.

15. **Independent Contractor.** The Town is an independent contractor under this Agreement. In taking any action or performing any obligation under this Agreement, neither the Town nor its Agents shall act as officers, employees, or agents of the County. No partnership, joint venture, or other joint relationship is created hereby. The Town shall not have the right to bind the County to any obligation not expressly undertaken by the County under this Agreement.

16. **EEO Compliance.** The Town shall not unlawfully 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, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work relating to this Agreement, and

shall not otherwise unlawfully discriminate in violation of Chapter 16½, Broward County Code of Ordinances. The Town shall comply with the Americans with Disabilities Act in the course of providing any services funded by the County. The Town shall include the foregoing or similar language in all agreements with its Agents performing work or services related to this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement, which shall permit the County to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or other applicable law, all such remedies being cumulative.

17. **Materiality and Waiver of Breach.** Each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. Either Party'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 of a provision of this Agreement 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.

18. **Compliance with Laws.** The Town shall comply with all applicable permits, regulations, ordinances, rules and laws of the State of Florida, the United States, any political subdivision, or agency of either in performing its duties, responsibilities, and obligations related to this Agreement.

19. **Severability.** In the event that any part of this Agreement is found to be invalid by a court of competent jurisdiction, that part shall be severed from this Agreement and the balance of this Agreement shall remain in full force and effect unless both Parties to elect to terminate the Agreement. The election to terminate this Agreement pursuant to this Section shall be made within ten (10) business days after the court's finding becomes final.

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

21. **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 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 of this Agreement, such reference is to the section as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section. Any reference to "days" means calendar days, unless otherwise expressly stated.

22. **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 of this Agreement, the provisions of this Agreement shall prevail and be given effect.

23. **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 Parties agree that 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 Parties agree that 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, THE PARTIES 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.**

24. **Amendments.** No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of the County and the Town.

25. **Prior Agreements.** This Agreement represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

26. **Payable Interest.**

26.1 The County shall not be liable to pay any interest, whether as prejudgment interest or for any other purpose, to the Town. The Town waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim for interest,

including for post-judgment interest, if such application would be contrary to applicable law.

26.2 If the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by the 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.

27. **Incorporation by Reference.** Attached **Exhibits A, B, B-1, C, D, and E** are incorporated into and made a part of this Agreement.

28. **Contract Administrator.** The “Contract Administrator,” as referenced in this Agreement, shall be the County Administrator or his or her designee, as designated in writing. The County Administrator is defined as the administrative head of the County pursuant to Sections 3.02 and 3.03 of the Broward County Charter.

29. **Representation of Authority.** The County and the Town each hereby represents and warrants that the individual executing this Agreement on behalf of such Party, on the date he or she signs this Agreement, is duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

30. **Counterparts.** This Agreement may be executed in counterparts. Each executed counterpart will constitute an original document, and all of them, together, will constitute one and the same agreement. It shall not be necessary for every Party to sign each counterpart but only that each Party shall sign at least one such counterpart.

31. **Survival.** The following Sections and obligations shall survive the expiration or earlier termination of this Agreement: (i) Sections 4.5, 4.6.4, 8.2.4, 8.4, and 9 in connection with repayment or recoupment of Grant Funds; (ii) Section 5 pertaining to indemnification; (iii) Section 8.2 with regards to the Town providing a Schedule to the County; and (iv) Section 10 in relation to the County conducting audits during the Audit Period.

[The Remainder of this Page is Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties 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____ (Agenda Item No. ____), and TOWN OF DAVIE, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of Broward County
Board of County Commissioners

By: _____
_____ day of _____, 20____

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____
Irma Qureshi (Date)
Assistant County Attorney

By: _____
Annika E. Ashton (Date)
Senior Assistant County Attorney

IQ/mdw
1/24/19
Park Grant Agreement – Playground Equipment at East Davie Nature Park
389914

AGREEMENT BETWEEN BROWARD COUNTY AND TOWN OF DAVIE FOR GRANT FUNDS TO FINANCE PLAYGROUND EQUIPMENT AT EAST DAVIE NATURE PARK.

ATTEST:

BY: _____
JUDY PAUL, MAYOR

EVELYN ROIG
TOWN CLERK

(SEAL)

APPROVED AS TO FORM

JOHN C. RAYSON
TOWN ATTORNEY

EXHIBIT A

DESCRIPTION OF PROPERTY

FOLIO NUMBER: 5041350102240

SITE ADDRESS: 5350 SW 58th Avenue, Davie, FL 33314

LEGAL DESCRIPTION: The South 640 feet of Tracts "7" and "8", JOHN W. NEWMAN'S SURVEY of Section 35, Township 50 South, Range 41 East, according to the Play thereof as recorded in Plat Book 2, Page 26, of the Public Records of Miami Dade County, Florida; said lands situate, lying and being in the Town of Davie, Broward County, Florida.

Abbreviated: NEWMANS SURVEY 2-26 D 35-50-41 A POR OF TR 7 DESC AS:COMM AT SE COR OF TR 8; W 2451.30; N 20 TO POB CONT N 620; W 195; S 620; E195 TO POB

EXHIBIT B

FUNDED ITEMS AND BOND REQUIREMENTS

1. Description. The Funded Items shall consist of playground equipment for East Davie Nature Park, as more particularly described in **Exhibit B-1**.
 - A. The Town agrees to construct the Funded Items in accordance with the plans and specifications prepared by, or under the supervision and review of, a registered professional architect, engineer, or other appropriate professional.
 - B. The Town is responsible for obtaining all state, federal, and local permits, licenses, agreements, leases, easements, and other approvals required for the Funded Items, and for following applicable state, federal, and local statutory requirements regarding the procurement of professional services for the Funded Items.
 - C. The Town shall erect a permanent sign acceptable to the Contract Administrator identifying the Park Bond Program and the County as a funding source of the Funded Items.

2. Required Documentation for Funded Items.
 - A. The Contract Administrator is responsible for ensuring performance of the terms and conditions and shall approve all payment requests prior to payment. Contract Administrator shall have the right, at all reasonable times and upon notice to the Town, to enter the Property to examine and inspect the Funded Items. On a quarterly basis, and until the completion of the Funded Items, the Town shall submit a status report, in the form attached hereto as **Exhibit E**, to the Contract Administrator in order to summarize the work accomplished, problems encountered, percentage of completion, and other appropriate information regarding the Funded Items. Photographs shall be submitted when appropriate to reflect work accomplished. The Town shall furnish to the Contract Administrator a copy of its contract(s) for the Funded Items within fifteen (15) calendar days of full execution of same.
 - B. Upon completion of the Funded Items, the engineer, architect, or other appropriate professional shall sign a statement certifying satisfactory completion of the Funded Items in accordance with the prepared plans and specifications.

3. Bond Requirements. The Town's acceptance of Grant Funds is conditioned on compliance with the following requirements:

- A. All Grant Funds are to be paid on a reimbursement basis pursuant to the requirements of Section 4 of this Agreement.
- B. The Funded Items shall be open to the public, and all Town residents and non-Town residents shall have access to, and use of, the Funded Items on equal terms and conditions. Any rates, charges, or fees for use of the Funded Items must be uniform for Town residents and non-Town residents. Differential rate structures for access to, or use of, the Funded Items on the basis of residency or non-residency in the Town is prohibited.
- C. The Property shall be owned by the Town or have a lease with a minimum term of twenty-five (25) years from completion of the Funded Items. Proof of such ownership or leasehold status is attached as **Exhibit D**.
- D. The Funded Items must be used, operated, and maintained for public park recreational uses for a minimum of twenty-five (25) years.
- E. The Town must provide a resolution from its governing board supporting the Funded Items and authorizing execution of this Agreement.
- F. The Funded Items shall be consistent with recognized park and recreational standards for similar facilities.

EXHIBIT B-1

With the approved grant funding, the Town of Davie will install a multiple bay swing set at East Davie Nature Park. The swing set will include belt swings, a toddler swing, a toddler/parent swing, and an ADA swing. The fall surfacing under the swing set and within the swing set boundary will be ADA compliant. A shade canopy will be installed over the swing set area.

EXHIBIT C

CERTIFICATE OF OWNERSHIP AND DEDICATION

**STATE OF FLORIDA
COUNTY OF BROWARD**

Pursuant to that certain Agreement between Broward County and Town of Davie for Grant Funds to Finance Playground Equipment at East Davie Nature Park ("Agreement"), dated _____, 20____, the Town of Davie, a Florida municipal corporation, certifies ownership of the property described in **Exhibits A and D** of the attached Agreement and hereby dedicates, for use by the general public for a minimum of twenty-five (25) years from the date of execution hereof, the Funded Items described in **Exhibits B and B-1** of the attached Agreement.

IN WITNESS WHEREOF, the Town of Davie has executed this Certificate of Ownership and Dedication on this _____ day of _____, 20____.

ATTEST:

BY: _____
JUDY PAUL, MAYOR

EVELYN ROIG
TOWN CLERK

(SEAL)

APPROVED AS TO FORM

JOHN C. RAYSON
TOWN ATTORNEY

EXHIBIT D

PROOF OF PROPERTY OWNERSHIP/LEASEHOLD

Return to:
Town of Davie
Town Clerk's Ofc
6591 SW 45 Street
Davie, FL 33314

INSTR # 104240602
OR BK 37999 Pages 1752 - 1755
RECORDED 08/10/04 16:38:05
BROWARD COUNTY COMMISSION
DOC STMP-D: \$0.70
DEPUTY CLERK 1033
#1, 4 Pages

Prepared By

Barbara Hall, Esq.
Greenberg Traurig, P.A.
401 East Las Olas Boulevard
Suite 2000
Fort Lauderdale, Florida 33301

Property Appraiser's Identification No.:
50-41-35-01-0242; 50-41-35-01-0240

Note to Examiner: This instrument is exempt from State of Florida documentary stamp tax as a conveyance of unencumbered property for no consideration.

SPECIAL WARRANTY DEED

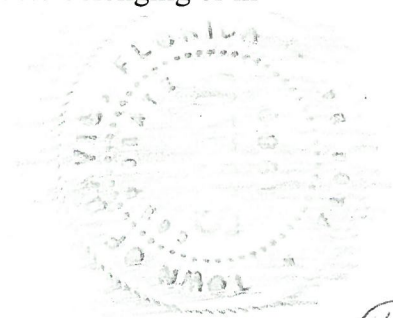
THIS SPECIAL WARRANTY DEED made and executed the 14 day of July, 2004, by **WESTBROOKE COMPANIES, INC.**, a Delaware corporation, as successor by merger with Westbrooke Companies, Inc., a Florida corporation (formerly known as The Westbrooke Companies, Inc.), whose address is 9350 Sunset Drive, Suite 100, Miami, Florida 33173 (the "Grantor"), to the **TOWN OF DAVIE**, a municipal corporation, whose address is 6591 Orange Drive, Davie
Florida 33314
(the "Grantee"):

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, all that certain land situate in Broward County, Florida (the "Property") as follows:

Legal Description is attached hereto as Exhibit "A"

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.



SUBJECT TO:

1. Covenants, easements and restrictions of record, though this reference is not intended to reimpose same;
2. Existing zoning and government regulations;
3. Taxes for the year 2004 and subsequent years.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the Grantor, but not otherwise.

A copy of the corporate merger documents of Westbrooke Companies, Inc., a Delaware corporation, are attached hereto as Exhibit "B".

IN WITNESS WHEREOF the Grantor has caused these presents to be executed the day and year first above written.

Signed, sealed and delivered
in the presence of:

WESTBROOKE COMPANIES, INC.
a Delaware corporation, as successor by
merger with Westbrooke Companies, Inc.,
a Florida corporation

Rebecca Medley
Print Name: Rebecca Medley

Alexander P. Keller
Print Name: Alexander P. Keller

By: David F. Webb
Name: David F. Webb
Title: Sr. Vice President



STATE OF FLORIDA)
)
COUNTY OF BROWARD) SS:

The foregoing instrument was acknowledged before me this 14 day of July, 2004, by David Webber as Senior VP of Westbrooke Companies, Inc. He/she personally appeared before me, is personally known to me or produced Florida DL as identification.

[NOTARIAL SEAL]

OFFICIAL NOTARY SEAL
REBECCA C MEDLEY
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. DD111598
MY COMMISSION EXP. MAY 4, 2006

Notary: Rebecca Medley
Print Name: Rebecca Medley
Notary Public, State of FLORIDA
My Commission expires: 5/4/06



Exhibit "A"

The South 640 feet of Tracts "7" and "8", JOHN W. NEWMAN'S SURVEY of Section 35, Township 50 South, Range 41 East, according to the Plat thereof as recorded in Plat Book 2, Page 26, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in the Town of Davie, Broward County, Florida.



EXHIBIT E

STATUS REPORT OF FUNDED ITEMS AT EAST DAVIE NATURE PARK

Reporting Period: _____

Date Report Prepared: _____

Project Information:

Name of Town	
Person Preparing the Report for Town	
Job Title	
Funded Items Start-Up Date	
Expected Completion Date	

- 1. Describe the current status of the Funded Items, identify the tasks performed and work accomplished during the quarter, and attach photographs of same:**

- 2. Describe problems encountered and provide a detailed explanation of corrective action taken or to be taken:**

Problem:	Corrective Action:

3. Percentage of Funded Items completed to date _____%.

4. Other Relevant Information:

CERTIFICATION

I hereby certify that the information reported in this status report and all supporting documentation is correct, and that all tasks and activities were conducted in accordance with the Agreement between Broward County and Town of Davie for Grant Funds to Finance Playground Equipment at East Davie Nature Park.

Signature

Print Name

Job Title