

AGREEMENT BETWEEN PALM BEACH COUNTY AND FRIENDS OF THE MOUNTS
BOTANICAL GARDEN, INC. FOR FUNDING OF A GARDENER POSITION

This Agreement, is made and entered into the ____ day of _____, 2024, by and between Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "County"), and Friends of the Mounts Botanical Garden, Inc., a Florida Corporation, not-for-profit (hereinafter referred to as "Friends").

WITNESSETH

WHEREAS, County owns and operates the Mounts Botanical Garden of Palm Beach County (hereinafter referred to as "Garden"); and

WHEREAS, on January 7, 1992, County entered into an Agreement with the Friends (hereinafter referred to as "1992 Agreement") whereby the Friends agreed to cooperate and assist in the operation and management of the Garden; and

WHEREAS, the 1992 Agreement provides that the Friends may provide funds to County to supplement the Garden's staff with additional employees, who will be hired and managed in accordance with County personnel rules with funding provided by Friends; and

WHEREAS, Friends desires to fund a gardener position at the County, with the position being filled by an individual deemed a County employee; and

WHEREAS, County desires to receive and use such funds for a gardener position at the Garden; and

WHEREAS, the acceptance and use of such funds will enhance the operation of the Garden and promotes a public purpose.

NOW, THEREFORE, in consideration of the mutual covenants and agreements expressed herein, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Friends shall provide County an amount not to exceed \$45,212 (Forty Five Thousand Two Hundred and Twelve Dollars) for 60% of the total estimated costs of \$75,354 (Seventy Five Thousand Three Hundred and Fifty Four Dollars) for salaries and benefits for one gardener position for the period October 1, 2024 through September 30, 2025. The County shall provide the remaining 40% of the funding in an amount not to exceed \$30,142 (Thirty Thousand One Hundred and Forty Two Dollars).
3. County shall invoice the Friends on a monthly basis beginning on the date this Agreement is entered into. The Friends shall make all payments to County without further notice from County.
4. County shall employ one (1) full-time county gardener position at the Garden with the funding mentioned above, to assist with increased Garden maintenance.
5. County shall continue to assume sole and exclusive responsibility for the hiring, termination, performance appraisal, and payment of wages as described above to the individual filling the position of the gardener at the Garden. The gardener shall be supervised by the Garden Curator and Director of Cooperative Extension Department, and shall be managed in accordance with County personnel rules.

6. The term of this Agreement shall commence on October 1, 2024 and terminate on September 30, 2025.

7. The County's performance and obligation to pay under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

8. This Agreement may be renewed upon mutual written agreement of the parties.

9. Nothing herein shall be construed to require County to continue the position provided for, should Friends cease funding of said position.

10. County agrees that the funding provided by Friends shall be used solely for those purposes stated herein unless written approval by the Friends allows otherwise.

11. Friends may terminate this Agreement for any breach thereof by County provided Friends gives thirty (30) days written notice to County. County may terminate this Agreement with or without cause provided County gives sixty (60) days written notice to Friends. In the event of a termination, County shall remit to Friends all unused funding, without interest, within thirty (30) days of the effective date of termination.

12. This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

13. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Friends, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

14. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

15. The County and Friends agree that this Agreement including the terms of the 1992 Agreement sets for the entire agreement between the parties and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement or the 1992 Agreement may be added to, modified, superseded or otherwise altered, except by written instructed executed by the parties hereto.

16. All notices required hereunder shall be in writing and shall be addressed to the following representatives of the parties:

For the Grantors: President, Friends of the Mounts Botanical Garden, Inc.
559 N. Military Trail

West Palm Beach, FL 33415

For the County: Director, Cooperative Extension Service
559 N. Military Trail
West Palm Beach, FL 33415

17. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract, including but not limited to any citizen or employees of the County or the Friends.

18. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, Friends warrant and represent that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of this Agreement.

As a condition of entering into this Agreement, Friends represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, Friends shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Friends retaliate against any person for reporting instances of such discrimination. Friends shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. Friends understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Friends shall include this language in its subcontracts.

19. Friends shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of this Agreement. The County shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Friend's place of business.

20. Pursuant to F.S. 286.101, as may be amended, by entering into this Contract or performing any work in furtherance thereof, the Friends certifies that it has disclosed any current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern where such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five (5) years.

21. Friends warrants and represents that it does not use coercion for labor or services is defined in section 787.06, Florida Statutes. Friends has executed Exhibit C, Nongovernmental Entity Human Trafficking Affidavit, which is attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, County and Friends hereby set their hands and seals on the date first written above.

ATTEST:

JOSEPH ABRUZZO, CLERK OF THE
CIRCUIT COURT & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: Arnie Helzlsouer
County Attorney

By: Ronald W. Rice
Department Director

FRIENDS OF THE MOUNTS
BOTANICAL GARDEN, INC.

Colin Hughes
Witness

By: Scott Surratt
Vice President

Arnie Helzlsouer
Witness

Date: 8/22/2024

CONTRACT EXHIBIT C

NONGOVERNMENTAL ENTITY HUMAN TRAFFICKING AFFIDAVIT
Section 787.06(13), Florida Statutes

THIS AFFIDAVIT MUST BE SIGNED AND NOTARIZED

I, the undersigned, am an officer or representative of the Friends of the Mounts Botanical Garden
(Friends) and attest that Friends does not use coercion for labor or services as defined in section
787.06, Florida Statutes.

Under penalty of perjury, I hereby declare and affirm that the above stated facts are true and
correct.

Scott D. Scovill
(signature of officer or representative)

Scott Scovill, Vice President
(printed name and title of officer or representative)

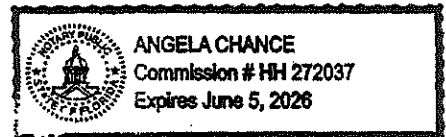
State of Florida, County of Palm Beach

Sworn to and subscribed before me by means of physical presence or online notarization this,
22nd day of AUGUST, by SCOTT D. SCOVILL.

Personally known OR produced identification .

Type of identification produced N/A

Angela Chance
NOTARY PUBLIC
My Commission Expires:
State of Florida at large



(Notary Seal)