

## TREE PLANTING RELEASE AND INDEMNIFICATION

**THIS TREE PLANTING RELEASE AND INDEMNIFICATION** ("Release"), is given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date") by \_\_\_\_\_ [an individual/as husband and wife] whose address is \_\_\_\_\_ ("Property Owner") to **City of Safety Harbor, Florida**, a municipal corporation whose address is 750 Main Street, Safety Harbor, Florida 34695 (the "City").

**WHEREAS**, Property Owner is the fee simple owner of that certain property located in Pinellas County, Florida at \_\_\_\_\_ (the "Property"); and

**WHEREAS**, Property Owner has requested the City to plant certain tree(s) on the Property, the species of which and locations are specified on **Exhibit A** (the "Tree Project") on the date(s) specified on **Exhibit A** (the "Project Date(s)") and desires to authorize the City and its representatives, employees, contractors, subcontractors, and/or volunteers to complete the Tree Project on the Property as set forth in this Agreement.

**NOW, THEREFORE**, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, Property Owner hereby acknowledges and agrees as follows:

**1. Recitals and Exhibits.** The foregoing recitals and all exhibits attached hereto are true and correct, and are incorporated herein by reference.

**2. Permitted Entry and Activity.** Property Owner acknowledges and agrees that the City and its representatives, employees, contractors, subcontractors, and/or volunteers are hereby authorized to enter upon the Property on the Project Date(s) and conduct all activities in furtherance of the Tree Project including, but not limited to planting, installation, and landscaping, and all other actions necessary to complete the Tree Project.. Property Owner acknowledges and agrees that existing landscaping may need to be removed, altered, or disturbed as part of the Tree Project.

**3. Disclaimer of Representations and Warranties.** Property Owner acknowledges that the City has no authority, control, or direction over the means and methods of its contractors or subcontractors. Property Owner further recognizes, acknowledges, and agrees that the tree provided as part of the Tree Project and all services for the installation and planting thereof are provided "as is" and the City expressly disclaims any and all expressed or implied warranties, including but not limited to any warranties about the health or condition of the tree(s) to be installed or fitness for a particular purpose. The City does not represent, warrant, or otherwise guarantee that the tree planted as part of the Tree Project will survive or be without issue, nor that the Tree Project will not have undesired future effects to the Property.

**4. Indemnification.** Property Owner agrees to assume liability for and indemnify, hold harmless, and defend the City, its commissioners, officers, employees, representatives, contractors, subcontractors, agents, volunteers, and attorneys of, from, and against all liability and expense, including reasonable attorneys' fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising out of the Tree Project whether or not due to or caused by the negligence of the City, its commissioners, officers, employees, representatives, contractors, subcontractors, agents, volunteers, and/or attorneys. The liability hereunder shall include all attorneys' fees and costs incurred by the City in the enforcement of this Release and indemnification provision. Notwithstanding anything contained herein to the contrary, this indemnification provision shall not be construed as a waiver of any immunity from or limitation

of liability to which the City may be entitled to pursuant to the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

**5. General Release.** Property Owner hereby releases and discharges the City, its commissioners, officers, volunteers, employees, representatives, contractors, subcontractors, and agents from any and all liabilities, claims, damages and expenses, including attorney's fees and claims for equitable relief, of any nature whatsoever arising out of or related to the acts, omissions (including negligent or deliberate acts or omissions) of the City, its commissioners, agents, officers, contractors, subcontractors, employees, volunteers, or any other community volunteers assisting in any way with the Project. Property Owner further covenants and agrees not to file any action or proceedings against the City, its commissioners, officers, volunteers, employees, representatives, contractors, subcontractors, or agents, for any claims that have arisen or may arise in the future on account of or in any way connected with the Project. The terms and provisions of this Release shall be binding upon Property Owner and his/her/their/its respective partners, successors, heirs, executors, administrators, assigns and legal representatives.

**6. Choice of Law/Venue.** This Release shall be construed by and controlled under the laws of the State of Florida. The Parties consent to jurisdiction over them in the State of Florida and agree that venue for any state action arising under this Release shall lie solely in the courts located in Pinellas County, Florida, and for any federal action shall lie solely in the United States District Court for the Middle District of Florida, Tampa Division. If any one or more of the provisions of this Release shall be held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby and this Release shall be treated as though that portion had never been a part thereof.

**PROPERTY OWNER HAS READ, UNDERSTOOD, AND FULLY CONSIDERED THIS RELEASE AND DESIRES TO ENTER INTO SUCH RELEASE. HAVING ELECTED OF THEIR OWN FREE WILL TO EXECUTE THIS GENERAL RELEASE, TO FULFILL THE PROMISES SET FORTH HEREIN, AND TO RECEIVE THEREBY THE BENEFITS SET FORTH ABOVE, PROPERTY OWNER FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS RELEASE INTENDING TO RELEASE, WAIVE, AND SETTLE ALL CLAIMS THAT THEY HAVE OR MIGHT NOW HAVE AGAINST THE CITY ARISING OUT OF OR RELATING TO THE TREE PROJECT.**

IN WITNESS THEREOF, Property Owner hereby executes and delivers this Release as of the date first above written.

**PROPERTY OWNER:**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_