



National  
Philanthropic  
Trust

Exhibit B

**AGREEMENT BETWEEN NATIONAL PHILANTHROPIC TRUST  
AND  
TOWN OF PALM BEACH**

THIS GRANT AGREEMENT (“Agreement”) is made as of August 9<sup>th</sup>, 2022 (the “Effective Date”), between National Philanthropic Trust (“NPT”), a public charity within the meaning of Sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code of 1986, as amended (the “Code”), with offices located at 165 Township Line Road, Suite 1200, Jenkintown, Pennsylvania 19046, and the Town of Palm Beach (the “Grantee”), a Florida Municipal Corporation and township described in Code Section 170(c)(1) .

WHEREAS, NPT is a sponsoring charity of donor advised funds;

WHEREAS, KENNETH C. GRIFFIN (the “Advisor”) is an advisor to a donor advised fund account sponsored by NPT, named the “Kenneth C. Griffin Charitable Fund” (the “Account”);

WHEREAS, in accordance with the documentation establishing the Account and NPT’s policies and procedures in effect from time to time, the Advisor is authorized to recommend grants to be distributed to permissible recipients;

WHEREAS, the Grantee is revitalizing Lake Drive Park at the Town of Palm Beach Marina (“Lake Drive Park Project”), which will include waterfront plantings (“Waterfront Plantings”);

WHEREAS, the Advisor has recommended that NPT make a grant to Grantee in support of the Lake Drive Park Project for the Waterfront Plantings (the “Grant”);

WHEREAS, the Grant is made for exclusively public purposes;

WHEREAS, the Town of Palm Beach Town Council has reviewed and approved the terms set forth below.

NOW, THEREFORE, the parties agree as follows:

**1. Grant Terms.**

Upon the recommendation of the Advisor, NPT hereby agrees to make a Grant to Grantee in the amount of two hundred thousand dollars (\$200,000) payable from the Account according to the following terms and conditions:

- a. *Grant Timing.* The Grant is payable immediately.
- b. *Grant Purpose and Use.* The Grant shall be used in support of the Lake Drive Park Project. Specifically, the Grant shall enable the Grantee to install the Waterfront Plantings shown on the attached Exhibit A to bring Grantee’s extensive waterfront beautification plan to life (collectively, the “Park Objectives”). The Grantee agrees to use, hold, manage and administer the Grant solely in furtherance of the Park Objectives. The Grantee may expend the Grant at

any time or times in support of the Park Objectives as determined in the sole discretion of the Grantee. The Grantee shall be entirely responsible for the proper expenditure of the Grant and for the maintenance of adequate supporting records consistent with generally accepted accounting principles. Each of NPT and the Advisor shall have an absolute right to inspect the supporting records relating to the Grant upon request. The Grantee shall, upon reasonable notice, cooperate fully in any evaluation of the Grant that NPT or the Advisor, in their respective sole and absolute discretion, may undertake, including making available relevant employees of the Grantee and relevant project, programmatic and financial records of the Grantee that relate to the Grant.

c. *Signage:*

(i) *Designated Name:* In recognition of the Grant, Grantee agrees that upon the completion of the Lake Park Drive Project, "Kenneth C. Griffin" will be recognized as the contributor to the Waterfront Plantings (the "Designated Name").

(ii) *Cast Bronze Placard.* The Designated Name shall be recognized with a cast bronze placard affixed upon a memorial stone (the "signage") in a prominent location at the Lake Drive Park to be mutually determined by Grantee and the Advisor. The signage shall be affixed for a period of forty (40) years, beginning upon the date that the placard is affixed pursuant to the preceding sentence.

1. Grantee and the Advisor acknowledge and agree that the overall goals of the signage are to: (a) prominently recognize the Designated Name, (b) offer clear, concise, and consistent communication of the Designated Name, and (c) allow both locals and tourists alike to easily identify the Designated Name.
2. Placement, lettering, style, location and prominence of the signage bearing the Designated Name shall be subject to the Advisor's written approval and the approval of the Grantee prior to installation, which consent shall not be unreasonably withheld and after which no changes shall be made without the Advisor's written consent. If the Advisor does not approve such placement, lettering, style, location and prominence of the signage, the Grantee agree to make such revisions as are reasonably requested by the Advisor. The style of signage bearing the Designated Name shall be consistent with other recognition signage at Lake Drive Park, and the scale of such signage shall be prominent, readily visible and no smaller than the largest signage format used by Lake Drive Park acknowledging similar areas.
3. The Grantee agrees that (a) acknowledgment of other donors within Lake Drive Park shall not diminish or interfere with the signage associated with the Designated Name, (b) signage bearing the Designated Name shall be kept in good condition and repair, which includes but is not limited to, removing graffiti from such signage and/or repairing any other defacement or vandalism of such signage and (c) the Grantee shall routinely build, maintain, repair and renovate the Waterfront Plantings bearing the Designated Name at its sole expense.

d. All signage and approvals required under this paragraph 1 to implement the Designated Name shall be at the Grantee's sole expense, and the Advisor shall not be obligated to recommend

additional gifts or contributions to the Grantee to secure the recognition rights for the Designated Name set forth under this paragraph 1. Nothing herein shall prohibit the Grantee from using the Grant to pay for all costs and expenses arising from obtaining the approvals for, and implementing, the recognition rights set forth under this paragraph 1.

- f. Notwithstanding anything to the contrary stated herein, the parties acknowledge that the Grant may equal, in the aggregate, less than two hundred thousand dollars (\$200,000) due to the fluctuation in value of the Account funds and assets and that NPT bears no responsibility or liability to any party for such fluctuation.
- g. The funds being provided to Grantee under this Agreement are solely an obligation of the Account and are not a general obligation of NPT or its other funds. The Account currently has sufficient assets to make all payments due under this Agreement and all other outstanding agreements. If, however, for any reason the Account at any time in the future lacks sufficient funds to make all payments under this Agreement when due in full, NPT reserves the right to reduce or revoke any and all payments due under this Agreement upon written notice to Grantee.

## **2. Representations and Warranties.**

Grantee hereby makes the following representations and warranties as of the date hereof and as of each date that Grantee endorses and deposits any check or accepts the wire transfer of any Grant from NPT:

- a. Grantee is a town described in Code Section 170(c)(1) and 509(a)(1) and is classified as a political subdivision within the meaning of the Code.
- b. The Grant shall be used exclusively in furtherance of Grantee's exempt purposes and shall not be used for lobbying, political contributions or to support political campaigns.
- c. No part of the Grant whatsoever will serve to provide a private benefit to the Advisor, NPT or any other person described in Code Section 4958(f)(7) with respect to the Account (including, without limitation, dues, membership fees, tuition or scholarships, benefit tickets, travel or goods bought at charitable auctions).
- d. This Agreement has been duly authorized, executed and delivered by Grantee, and the officer executing this Agreement on behalf of Grantee is duly authorized to execute this Agreement.
- e. There is no pending or threatened claim, action, suit, proceeding, investigation or criminal proceeding, the outcome of which could have a material adverse effect on the business, finances or prospects of Grantee.
- f. Grantee does not and will not knowingly provide financial support or other resources to any individual or entity to further unlawful acts including acts of violence or terrorism, and Grantee is in compliance with all laws, statutes, and regulations restricting U.S. persons from dealing with any individuals, entities, groups, or countries subject to Office of Foreign Assets Control sanctions.
- g. Grantee is in compliance with all applicable federal, state and local laws and regulations.
- h. The Grantee represents that no tangible benefit, goods or services will be provided to NPT or the Advisor or any individuals or entities connected with the Advisor as a condition of the Grant. The Grantee further represents that the Grant is not being used to satisfy the

payment of a pledge or any other personal or corporate financial obligation on behalf of NPT or the Advisor.

**3. Public Recognition and Announcements.**

Public announcements, press releases, credit lines, or signage, if any, pertaining to the Grant, shall not be released until this Agreement is fully executed and the Grant is paid, and shall be in such form and substance as is mutually agreed upon between the Grantee, NPT and the Advisor. On or before the Naming Date, neither the Grantee, NPT and the Advisor shall use the other's name in any publicity or news release without such other's prior written approval, and such required approval shall be limited to the use and reference of the name of the Grantee, NPT and the Advisor or the Grant and not any other content contained in the publicity or news release.

**4. Logo Use.**

Grantee hereby grants to the Advisor and his successors, assignees and licensees the right, but not the obligation, free of charge, to use the Grantee's name/trademark and logo (the "Logo") exclusively in the context of publicizing, exhibiting and spotlighting the Advisor's charitable giving. The Grantee represents and warrants that it has the right and authority to grant the rights set forth in this paragraph 4 without the necessity of obtaining consent for any third party. The Advisor agrees that the Logo is and will remain the Grantee's exclusive property and understands that he does not acquire any right, title or interest in the Logo, other than the right to use the Logo in accordance with this paragraph 4.

**5. Termination of Obligations.**

If, as of any date, the representations and warranties contained in paragraph 2 are no longer true and accurate, then Grantee shall promptly notify NPT of such occurrence.

The parties agree that NPT may respond to such notification by terminating NPT's obligation under this Agreement to distribute further Grant installments to Grantee. Upon such termination, Grantee shall return all unexpended Grant funds to NPT (attn: Kenneth C. Griffin Charitable Fund) within sixty (60) days of such termination, excluding any allowable non-cancellable obligations incurred in good faith prior to the date of the notice in accordance with the terms of this Agreement.

**6. Private Right of Action.**

The parties acknowledge and agree that the Advisor is a third party beneficiary of this Agreement and shall have a private right of action to enforce the terms of this Agreement to the full extent as if he was party to this Agreement. The Grantee agrees that the Advisor shall have standing to enforce the provisions of this Agreement, and the Grantee hereby waives any right it may have to assert lack of standing as a defense to any action brought by the Advisor or his successors to enforce the provisions of this Agreement (including, without limitation, any action seeking specific performance, injunctive or other equitable relief).

**7. Notice of Breach.**

If any party believes that another party has breached its obligations under this Agreement, the first party shall send written notice to the other party of the alleged breach ("Breach Notice"), and shall give the allegedly breaching party thirty (30) days to cure the breach or explain why it believes no breach has occurred. If a party is unable to cure an alleged breach to the satisfaction of the party alleging the breach within thirty (30) days of the Breach Notice, then the parties shall promptly begin the process as provided in paragraph 8, below.

**8. Failure to Comply with Naming Rights.**

The Grantee understands, agrees and acknowledges that (a) the rights set forth in paragraph 1 (collectively, the "Naming Rights") are at the essence of this Agreement and are a material and essential inducement to NPT's entry into this Agreement, absent which the Advisor would not agree to recommend the Grant, (b) the Advisor shall suffer irreparable harm if the Designated Name is removed from the signage and/or materially altered or the Grantee fails to comply with the Naming Rights under paragraph 1, and (c) money damages and disgorgement of funds shall not be an adequate remedy for such breach. Accordingly, if a dispute or controversy arises from this Agreement as a result of (i) Grantee's removal or alteration of the Designated Name or (ii) Grantee's failure to comply with the Naming Rights under paragraph 1, (collectively, the "Naming Rights Breach"), the Advisor, NPT or their respective successors may, after thirty (30) days following a Breach Notice sent to the Grantee, seek specific performance, injunctive or other equitable relief in order to enforce, or prevent any violations of, the Naming Rights. Upon the request of the Advisor, NPT or their respective successors, the Grantee hereby consents to the entry of a judgment (a) granting injunctive or other equitable relief preventing the alteration and/or removal of the Designated Name, and (b) granting specific performance with respect to the provisions of paragraph 1. The Grantee shall be prohibited from breaching this Agreement by removing the Designated Name if the Grantee receives a larger grant or gift that requires the change of the Designated Name. If, notwithstanding the foregoing, injunctive or other equitable relief and specific performance is not granted to the Advisor, NPT or their respective successors, as the case may be, then the Grantee shall distribute the aggregate amount of the Grant received by the Grantee from NPT as of the date of the relevant Naming Rights Breach to any one or more sponsoring organizations of the Advisor's Donor Advised Funds designated by the Advisor, NPT or their respective successors in writing.

**9. Responsibility, Indemnification and Waiver.**

- a. *Responsibility.* The Lake Drive Park Project will be located on property that is owned by Grantee and maintained by Grantee (the "Responsible Party"). The Responsible Party agrees that it shall assume all responsibility (and neither NPT nor the Advisor shall bear any responsibility), at any time and from time to time following the execution of this Agreement, maintaining, securing, repairing and monitoring the Lake Drive Park Project. The Responsible Party shall have sole responsibility for the construction, use, maintenance, operation and security of the Lake Drive Park Project and all associated areas, and the Responsible Party agrees that none of NPT, the Advisor, nor any respective agent, employee, heir, executor, insurer, lawyer, successor or assign shall have any responsibility for the construction, use, operation, maintenance or security of the Lake Drive Park Project. Nothing herein contained shall be construed to give NPT or the Advisor any property interest in the Lake Drive Park Project or any portion of property maintained by the Responsible Party, or any rights to other components of the Lake Drive Park Project. Moreover, nothing herein contained shall be construed to give NPT or the Advisor any control over the Lake Drive Park Project or any portion of property maintained by the Responsible Party.
- b. *Indemnification.* Notwithstanding anything herein to the contrary, the Responsible Party agrees that neither NPT nor the Advisor shall be solely, jointly or otherwise liable in any capacity under any circumstances related to the Lake Drive Park Project, and the Responsible Party shall, subject to Florida Statute 768.28, fully indemnify, defend and hold NPT and the Advisor and their respective agents, employees, heirs, executors, insurers, lawyers,

successors and assignees harmless from and against any and all claims of any nature arising from or relating to the construction or operation of the Lake Drive Park Project in any way, including but not limited to any personal injury, property damage, activity, work or things done, or permitted by the Responsible Party or its agents, or arising from or related to any acts or omissions, intentional or otherwise, of the Responsible Party or any of its agents.

- c. *Defense and Waiver.* In the event that any action or proceeding is brought against NPT or the Advisor and/or their respective heirs, successors, assigns, representatives, executors, insurers, attorneys, employees and agents by reason of any claim described in the preceding subparagraph, the Responsible Party shall defend the same at the Responsible Party's sole expense by counsel reasonably satisfactory to and approved by NPT or the Advisor, as relevant, with respect to any action or proceeding brought against that party. The Responsible Party, as a material part of the consideration to NPT, hereby assumes all risk of damage to property or injury to persons, or anything else that could give rise to liability, in, on or about the Lake Drive Park Project or related to the construction, use, safety or maintenance of the Exhibit, arising from any cause attributable to or directed against the Responsible Party, and the Responsible Party hereby waives all claims in respect thereof against NPT, the Advisor and/or their respective heirs, successors, assigns, representatives, executors, insurers, lawyers, employees and agents.
- d. *Survival.* The provisions in the preceding subparagraphs of this paragraph 9 shall survive the expiration or termination of this Agreement.

**10. Binding Effect; Representatives.**

The Grantee's covenants and obligations under this Agreement shall be binding upon and enforceable against the Grantee by NPT and the Advisor. The Advisor may designate by written instrument delivered to the Grantee one or more representatives, each of whom may give the approval provided in paragraph 3 of this Agreement and may take any other permitted action hereunder on the Advisor's behalf in the event the Advisor is not able to act given his incapacity or death.

**11. Headings.**

The paragraph headings in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof.

**12. Severability.**

If any covenant or representation in this Agreement shall be found to be void or contrary to law, such covenant or representation shall be deemed to be severed from the other covenants and representations hereof, but only to the extent necessary to bring the remaining covenants and representations within the requirements of law, and the remainder of this Agreement shall be given effect as if the Grantee had not included the severed covenant or representation.

**13. Entire Agreement.**

This Agreement, including any addendums and exhibits, constitutes the entire agreement between the parties and supersedes all written and oral communications and agreements between the parties.

**14. Amendment; Governing Law.**

- a. This Agreement constitutes the full understanding between the parties and shall be governed by the laws of the Commonwealth of Pennsylvania.
- b. This Agreement may be amended only in writing signed by the authorized officers of both of the parties.

**15. Notice.**

All notices, reports, requests and other communications hereunder must be in writing and shall be deemed to have been duly given only if delivered (a) personally, (b) by registered or certified mail with return receipt requested, or (c) by a recognized overnight delivery service to the parties, as applicable, at the following addresses:

if sent to NPT:

Attn: Philanthropic Services  
National Philanthropic Trust  
165 Township Line Road, Suite 1200  
Jenkintown, PA 19046-3593  
Fax: 215 277 3029;

and, if sent to Grantee:

Attn: Kirk Blouin  
The Town of Palm Beach  
360 S. County Road  
Palm Beach, Florida 33480  
561-838-5410

and, if sent to Advisor:

Attn: Kenneth C. Griffin  
Chief Executive Officer  
131 South Dearborn Street  
Chicago, Illinois 60603

With a copy to:

Attn: Cason Carter  
Head of Government Affairs  
131 South Dearborn Street  
Chicago, Illinois 60603

and

Attn: Camille Lu  
Loeb & Loeb LLP  
321 North Clark Street, Suite 2300  
Chicago, Illinois 60654

**16. Execution.**

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

NATIONAL PHILANTHROPIC TRUST

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

Name:

Title:

TOWN OF PALM BEACH

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

Name: Kirk Blouin

Title: Town Manager



**EXHIBIT A**

**WATERFRONT PLANTINGS (DENOTED IN GREEN)**

