

General Manager Regular Agenda Item #060870
January 22, 2007

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF GAINESVILLE
AND
SHANDS TEACHING HOSPITAL AND CLINICS, INC.
FOR THE
CENTRAL UTILITY PLANT FACILITIES TO SERVE
THE SOUTH CAMPUS EXPANSION

INTRODUCTION

This Memorandum of Understanding ("MOU") is between The City of Gainesville, Florida, a municipal corporation doing business as Gainesville Regional Utilities ("GRU") and Shands Teaching Hospital and Clinics, Inc., a Florida not-for-profit corporation ("Shands"). Shands is developing a multi-phased project to provide acute and tertiary care and academic medical center facilities in an area generally bounded on the north by SW Archer Road, on the east by SW 13th St, on the south by SW 16th Avenue, and on the west by SW 16th Street ("Project Campus"). The master plan for the Project Campus is currently envisioned to include four phases comprised of several facilities located throughout a campus park setting as summarized in Table 1 below. GRU will finance, construct, own operate, and maintain facilities provided to meet the unique energy and medical gas needs of the Project Campus, through a facility called the Central Utility Plant ("CUP"). The ownership and responsibility for financing, construction, operation and maintenance for all facilities except for the Central Utility Plant will be held by Shands.

Table 1
Project Campus Site Program and Capacities

Year	Electricity	Boiler HP	Chiller Tons	Phase	Building Sq Ft
2008	5 MW	800	2,400	I	500,000
2018	8.3 MW	1,333	4,000	II	800,000
2028	16.7 MW	2,666	8,000	III	1,600,000
Build Out	20-25 MW	4,000	16,000	Final	3,000,000

PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING

The purpose of this MOU is to document the basic terms and conditions agreed to by the parties to date in order to enable further expenditure of funds by GRU for the development of construction designs, performance and architectural standards, and pricing while final agreements are developed. These terms and conditions, CUP facility design criteria, equipment specifications, system performance, architectural standards, and pricing will form the basis for the master service agreement ("Master Agreement") between GRU and Shands. The Master Agreement shall be subject to approval by the Gainesville City Commission. Shands has the requisite authority to enter into this MOU as well as any subsequent agreements that arise therefrom. Neither GRU nor Shands is obligated to enter into service agreements unless the final terms, conditions and pricing are mutually acceptable. This MOU is applicable only to the provisions of certain advanced utility services to the South Campus Expansion as described herein and will require City Commission approval. The services covered by this MOU include:

1. Wholesale electric power;
2. Emergency, back-up and standby electric generation;
3. Chilled water for space conditioning;
4. Process steam;
5. Medical gases;
6. Facilities required to connect the CUP to the Project Campus Buildings; and
7. Related land, buildings, fuel storage, controls and switchgear.

GRU will also be providing electric, water, wastewater, and natural gas service connections to the Project Campus in accordance with prevailing GRU policies, practices, and agreements; the provision of which services is outside this MOU.

UNDERSTANDING OF MUTUAL BENEFITS

Shands envisions a Central Utility Plant ("CUP") which will provide chilled water services, emergency, back-up and standby electrical power, process steam, and medical gases to the Project Campus, delivered to a point of demarcation immediately adjacent to the edge of each building being served, as mutually agreed. The CUP will be designed and constructed to be expanded in a modular fashion to accommodate the various phases outlined in Table 1 above. Pursuant to the Master Agreement anticipated by this MOU, GRU will own and operate this facility to serve the Project Campus and to potentially provide services to other portions of the community as well. The mutual benefits the parties anticipate from the Agreement include the following:

- a. GRU desires to promote chilled water systems in multi-tenant, commercial, institutional, and industrial properties throughout the

Gainesville community on an enterprise basis as a way to promote and demonstrate energy efficient facility systems while benefiting all utility ratepayers and system subscribers.

b. Shands desires to take advantage of the potential economies of scale, organizational depth, regulatory experience, convenience of operation, and transparency of capital costs that GRU offers, especially as CUP capacity is expanded to accommodate later phases of the project. Furthermore, Shands is aware that GRU is interested in evaluating additional benefits that might be obtained by integrating operations, such as allowing CUP facilities to be dispatched to meet retail loads under certain conditions, and the use of thermal storage and/or combined heat or power to reduce operating costs and improve reliability.

CUP DESIGN AND APPROVAL PROCESS

CUP Design shall be performed, or caused to be performed by subcontractors to GRU, in coordination and in close communication with the Shands Project Team as described in the Shands RFP dated September 6, 2006 ("RFP"). All designs shall be subject to the approval of the Shands and GRU Project Managers, who are designated as follows.

Shands Team Leader
Bradley S. Pollitt, AIA
Shands HealthCare
P.O. Box 100366
Gainesville, Florida 32610-0366

GRU Project Manger
Chuck S. Heidt, P.E.
Gainesville Regional Utilities
P.O. Box 147117
Station A-132
Gainesville, Florida 32614-7117

It is mutually agreed that the facility capacities, design, and layouts as provided in the RFP shall be initial basis of the GRU designs. GRU shall be empowered to modify any aspect of the initial design to reflect reduced cost, improved energy efficiency, ease of expansion, and improved operations and maintenance provided that any such alteration is to be mutually approved. Any deviation from this design, such as to integrate combined heat and power, shall be adopted only after review of a detailed business case and acceptance of the additional terms and conditions associated with such a facility.

CUP Design Cost Reimbursement

Should both parties fail to execute the Master Agreement by to March 31, 2007, the parties, by mutual written agreement may extend this deadline as required. In addition to the above, unless one or both parties withdraws from this transaction, in writing, prior to March 31, 2007, the deadline will automatically extend on a day to day basis until such date that the parties execute the Master Agreement. In the event the parties do not enter into a master agreement, GRU shall transfer all work completed as of that date to Shands, and GRU shall be reimbursed by Shands for its actual costs and expenses incurred on behalf of the CUP design and the development of the Master Agreement after November 18, 2006, including consulting fees and expenses, GRU staff salaries and travel expenses, reproduction costs, equipment commitment costs, and usual and customary overhead charges. GRU agrees to allow Shands to contract, directly or indirectly, for the services of Burns & McDonnell for finalizing the design and construction of the CUP in order to keep the project on schedule to provide utilities to the hospital.

Purchase Commitments

In order to meet Shands time line, it may be necessary for GRU to place orders for certain critical equipment prior to final execution of the Master Agreement. Several pieces of equipment, including but not limited to generators, large motors, switchgear, transformers and chillers, have been identified as long-lead items and will need to be ordered in early February 2007 in order to meet the critical path schedule for delivery of utilities to the hospital. No such order shall be placed without written approval from both parties including express acknowledgement of the terms and conditions of such purchases and any obligations of the parties that result there from. Should both parties fail subsequently to execute the Master Agreement, Shands will reimburse GRU for such commitments, and GRU will transfer ownership of the purchase contracts to Shands.

Permits

The parties will work mutually to the overall benefit of the Project Campus and the CUP to secure the necessary development approvals and environmental permits. Environmental permits shall be obtained in GRU's name as required for the operation of the CUP. Shands agrees to provide GRU with Phase 1 environmental audit for the CUP site and will provide a waiver for identified pre-existing conditions as part of the land purchase agreement.

MASTER AGREEMENT – TERMS AND CONDITIONS

The basic terms and conditions of the Master Agreement shall be as contained in GRU's response to the Shands RFP, entitled Proposal to Provide Design, Build and Operate Services for: Shands HealthCare Shands Cancer Hospital Central Utility Plant submitted by GRU to Shands on October 5 2006, except as

otherwise amended and/or clarified in this Section of the MOU. These amendments and clarifications are the result of questions asked during the interview phase of the Shands RFP evaluation process, as well as discussions after GRU was notified of Shands selection of the CUP provider.

Central Utility Plant Site

GRU will purchase and own fee simple title to the land upon which the CUP is to be initially constructed and subsequently expanded, subject to specific terms and conditions of the purchase/sale to be negotiated between the parties. Shands will allow GRU to serve other customers from the site, provided that the costs of shared facilities, operations, and land which will initially be allocated 100% to Shands are to be appropriately re-allocated to reflect the actual use of the output of the facility. GRU understands that the CUP will share a zero lot line with a parking garage/retail facility immediately to the east.

GRU shall have unrestricted easements allowing ingress and egress to utility facilities over, under, upon and through the property and associated service corridors for the purposes of installing, operating and maintaining appurtenances to the CUP, including, but not limited to duct banks, cables, conduit and piping. The CUP and all appurtenances thereto connecting the CUP to the mutually agreed demarcation point at each Shands building being served will be owned and operated by GRU and will be expected to meet the esthetic and architectural standards of the South Campus Expansion Master Plan.

Time is of the Essence

Timely completion and coordination of the construction of the CUP with the balance of the Project is of the essence, and a plan to assure optimal project coordination and system compatibility will be developed. The Agreement will set specific project timetables, designed to meet the requirements of the project.

MASTER AGREEMENT – RATES AND FEES

The rates and fees for CUP shall be established and adjusted through time as described in Section 2.4.6 of GRU's response to the Shands RFP as described above ("Rates and Fees", attached as Exhibit A), except as otherwise amended and/or clarified in this Section of the MOU. These amendments and clarifications are the result of questions asked during the interview phase of the Shands RFP evaluation process, as well as discussions after GRU was notified of Shands selection.

Capital Cost Recovery For Land

GRU intends to amend Exhibit A to exclude the cost of land from the additional interest charge and apply only GRU's actual tax-exempt bond interest rate to this cost when computing the Shands capital recovery charge.

Contributions in Aid of Construction

Shands may choose, at its sole discretion, to contribute up to 10% of the capital costs for the CUP as a way to reduce the recurring capital recovery charge ("CRC") described in section 2.4.6.1 of exhibit A. Capital contributions may be made by Shands at any time; however the reduction in CRC shall be adjusted to reflect any carrying costs for funds used during construction. Any contributions made by Shands pursuant to this provision are in the nature of a prepayment to reduce recurring costs and will not confer CUP property ownership upon Shands.

Wholesale Electrical Power Service

GRU shall provide electrical power to the entire Project Campus site, including the CUP and hospital buildings, under a wholesale electrical power contract that will provide service under the most favorable tariffs available to GRU's large power customers. Shands shall receive a 13% discount on large power metered facilities (greater than 1000 kilowatts), 10% on General Service Demand facilities (between 50 and 999 kilowatts, and 7% for General Service category facilities (less than 50 kilowatts) on non-fuel energy and demand charges through January 31, 2013 for facilities on the Project Campus. Costs for electrical power consumed by the CUP shall be passed through to Shands without mark-up. Facilities on the Project campus shall be metered and billed individually.

Natural Gas Service

As described in the Exhibit A, natural gas service to the entire Project Campus shall be provided under GRU's Large Volume Interruptible Service ("LVIS") tariff. Should a combined heat and power design be adopted, natural gas for the CUP shall be provided at the same average cost per therm as paid by GRU's power system. Other facilities on the Project Campus will continue to receive service at the appropriate retail tariff rate. Costs for natural gas consumption by the CUP will be passed through to Shands without mark-up. GRU is willing to hedge (fix) all or part of the price of natural gas for the CUP under commodity orders specifying the quantities, prices, and contract conditions for a specific time period provided that Shands is willing to pay the premium costs for such hedges.

Performance Standards and Gain Sharing

Performance standards for chilled water and steam cited in Exhibit A are minimum efficiency thresholds above which GRU will assume responsibility for

payment of related electrical and natural gas. Should better efficiencies be achieved, the electrical and natural gas cost savings will be split evenly between Shands and GRU. Gain-sharing applies only to cost elements not being passed through without mark-ups.

Combined Heat and Power

Should combined heat and power be adopted, GRU amends the conditions in Exhibit A to purchase all power generated at price per megawatt-hour generated assuming an 8,000 heat rate and the Florida Gas Transmission, Florida Gate daily gas price.

Budget Review Process

Prior to preparing budgets, GRU and Shands shall have a formal pre-budget meeting to review performance, costs, equipment conditions, and changes in load, and any other planning matter that might pertain to the operation, maintenance, expansion, or renewal of the CUP. Both parties will make a best attempts effort to identify ways in which to improve efficiency, reduce cost, improve reliability, and to discuss and understand the tradeoffs therein. GRU shall then prepare budget for the CUP for Shands to review by June 1 of each calendar year, to include both capital and O&M projections for the fiscal year October 1 through September 30. GRU shall have the overriding responsibility to meet the performance requirements provided in the Master Agreement. Should Shands object to a level of expenditure, these performance levels shall prevail unless otherwise agreed to in writing.

Energy Credits

GRU shall retain ownership of any tradable environmental credits that may accrued as a result of operating and owning the CUP or a combined heat and power plant, such as carbon off-sets, green tags, or conservation credits.

Fuels and Medical Gases

GRU will purchase and supply all fuels used by the CUP at GRU's cost. The manner in which medical gases will be purchased has yet to be determined, however, GRU intends to adhere to the principles contained in Exhibit A and will pass the cost of medical gases on to Shands without mark-up.

Termination and Buy Back

In the event of contract default other than due to force majeure, Shands may terminate the Final Agreement after providing GRU with an opportunity to cure the defect, by payment of the greater of a) fair market value or b) the present

value of outstanding debt, as well as 3 years of the OMRC payment budgeted at the time of termination. The Final Agreement will contain provisions to reflect any additional customers served from the facility or other considerations.

RESOLUTION OF CONTRACT DISAGREEMENTS

Should a dispute or disagreement as to the interpretation of any of the terms or conditions of this agreement, or either party's performance thereof, the aggrieved party, as a condition precedent to any remedy under the terms of this agreement or general law, shall notify the other in writing describing the dispute and proposed resolution with specificity. The parties shall then meet at an agreed place and time, no more than thirty (30) days after the delivery of notice of the dispute to attempt a resolution of the dispute. If resolution of the dispute is not achieved within ninety (90) days of the notification of the parties may resort to such other remedies as are available under the terms of this agreement or as provided by general law.

AMENDMENTS TO THIS MOU

Amendments to the deadlines in this MOU shall be in writing and approved by both parties.

FACILITY NAME

The formal facility name is to be determined and will be subject to mutual approval. Both parties intend to appropriately affix their corporate logos to the signage associated with the CUP.

For Shands Teaching Hospital and Clinics, Inc.:

Brad Pollitt, Vice President, Facilities

Date _____

For Gainesville Regional Utilities:

Karen S. Johnson, Interim General Manager

Date _____

Approved as to Form and Legality

Date _____

Raymond O. Manasco, Utilities Attorney

EXHIBIT A

(Excerpt from Proposal to Provide Design, Build and Operate Services for: Shands HealthCare Shands Cancer Hospital Central Utility Plant, submitted by GRU October 2006)

Fee Structure

GRU is proposing to set fees and charges based on the principles of a utility cost of service model it uses for its community wide electric, water, wastewater and natural gas services, with several important differences. Performance guarantees in terms of chilled water and steam thermal efficiencies will be provided, and GRU will assume the risk of failing to meet these guarantees. Gain sharing is also being proposed as an incentive to budget carefully and reduce costs. Finally, the cost of capital will be defined. The cost of service approach being proposed will put the CUP into the financial position of a self sustaining utility system over the 50 year agreement.

Accounts will be created to capture all financing, operations and maintenance, and renewal and replacement costs associated with the CUP. Fees will be set annually as described below based on projected requirement for the coming year and annual true-ups applied to accommodate for deviations in capital, operation and maintenance costs for the previous years, subject to performance incentives. Fuel, electricity, chemicals, water, wastewater and medical gas costs will be directly passed through on a monthly basis with monthly projections and monthly true-ups as required. This financial arrangement will make Shands and GRU partners in that information related to cost control and planning decisions will be closely coordinated.

CHP Energy Credit Option

A combined heat and power facility has a number of advantages related to power quality, reliability, and energy conservation. An additional benefit GRU brings to the table is our willingness to offer credit for the output of the generator powered by the combustion turbine at wholesale power market rates. This rate would be approximated as six times the retail cost of a million BTU of natural gas, purchased by the CUP, per megaWatt-hour.

2.4.6.1 Contract Demand

Monthly contract demand charges will be the sum of two separate fixed charge calculations capital recovery charge ("CRC") and O&M recovery charge ("OMRC") that will be performed annually based on audited performance data and projected operating requirements. The CRC will be designed to recover capital costs and the OMRC will be designed to recover all operations, repairs, and maintenance costs excluding fuel, electricity, chemicals, water, wastewater and medical gas costs, which will be passed directly through to Shands as described in the responses to RFP sections 2.4.6.2 and 2.4.6.3 below. For the first 18 months of operation the CRC and the OMRC will be set to accumulate an operating reserve equal to one third of the expected total annual contract demand costs.

Capital Recovery Charge (CRC)

The CRC will recover the actual capital cost required to achieve mutually agreed design capacity requirements, and performance requirements of the CUP. Actual capital costs will consist of invoices paid and in-kind services (including usual and customary overhead charges) plus an allowance for funds used during construction (AFUDC). AFUDC will be the accumulated prevailing tax exempt municipal bond interest rate paid for funds used during construction. CRC calculations will assume all capital is 100% debt financed for the purposes of the agreement with Shands. The interest rate to be applied for the CRC will be the prevailing tax exempt municipal bond interest rates (currently 5.25%) plus 10% to meet GRU's discretionary investment requirement.

The CRC will recover levelized principle and interest payments for the accrued investments with the interest rate associated with each investment based on standard accounting principles. Payments will be based on the weighted useful life for each investment, for example 50 years for structures and buildings, 20 years for equipment and 5 years for electronics. As debt is retired Shands may expect contract demand charges to decrease.

O&M Recovery Charge (OMRC)

Annual budgets will be set for labor, maintenance contracts, materials, tools, and any other item required for the sustained and reliable operation of the CUP. Given that detailed load characteristics are not currently available for the CUP, GRU has chosen to recover these costs as annually adjusted monthly charges, as opposed to including these costs in commodity charges based on usage.

Gain Sharing

To promote cost efficiency GRU proposes that of any savings below budgeted amounts, GRU will retain 50% and Shands will receive 50% through the subsequent annual cost true-ups. For any cost overruns, GRU will absorb 50% and Shands will absorb 50% through subsequent annual cost true-ups. Unforeseeable extraordinary expenses will be excluded from gain sharing calculations.

OMRC costs will include customary and usual overheads plus an additional 16.54% margin. Overheads on in-house labor are currently 45% for direct and indirect costs, and overheads on purchased services are 15%.

2.4.6.1.2 Utility Costs

Electricity, fuel, water and wastewater costs used to produce chilled water and steam will be passed directly through to Shands except that GRU will make performance guarantees for electrical consumption and boiler fuel consumption. All utility costs shall be determined monthly and billed in arrears. For schedule of fees, please see spreadsheet beginning on page 4, which is also included on the attached CD.

Applicable Tariffs

GRU is proposing to serve the CUP as well as the Shands Campus with electricity under the tariff rates for large power customers. Natural gas will be provided under the Large Volume Interruptible Tariff rate, water will be provided under the UF contract off-campus wholesale water rate, and wastewater will be provided under the commercial wastewater tariff rates.

Electrical Consumption for Chilled Water Production

Electrical consumption for chilled water production will be billed as the total tons of chilled water delivered times a guaranteed efficiency (0.92 kilowatts per ton hour) times the average cost per kilowatt-hour of electricity used by the CUP during that billing period.

Performance Guarantee – If GRU is unable to meet that efficiency it will not recover costs for the excess energy. GRU's ability to be efficient depends on how Shands chooses to operate its own facilities which impose demands on the CUP. Once design and load profiles become more refined, GRU is willing to develop incentive plans to share savings should better efficiencies be achieved.

Fuel Consumption for Steam Production

Fuel consumption for steam production will be billed as the total tons of steam delivered times a guaranteed efficiency (.82 mmBTU of steam per mmBTU of fuel) times the weighted average cost per mmBTU of fuel used by the CUP during that billing period (natural gas or diesel).

Performance Guarantee – If GRU is unable to meet that efficiency it will not recover costs for the excess energy. GRU's ability to be efficient depends on how Shands chooses to operate its own facilities which impose demands on the CUP. Once design and load profiles become more refined GRU, is willing to develop incentive plans to share savings should better efficiencies be achieved.

Other Utilities and Chemicals

Other utilities (miscellaneous plant electrical loads, water and wastewater) and chemicals will be passed through at cost to Shands.

2.4.6.3 Medical Gases and Other Purchased Services

Medical gases and other purchased services will be passed through at cost to Shands. The facility costs to handle medical gases and the O&M costs to operate and maintain these facilities are included in the OMRC described in the response to RFP section 2.4.6.1. The overheads for other purchased services are discussed under the same section.

2.4.6.4 Financing Terms and Conditions

GRU will finance the CUP facilities as described in the response to RFP section 2.4.6.1. This financing will be conditioned on the ability to execute a 50 year agreement under which GRU will own, operate and maintain the CUP facilities as well as the underlying

land which GRU will prefer to own fee simple. GRU also wishes to be able to serve other customers from the CUP site.

2.4.6.5 Termination and Buy Back

Shands will have the option to buy back the CUP upon payment of Depreciated Book Value plus payment of 10 years of the CRC at the time of termination. GRU will retain any operating reserves. For “buy back” schedule, please see spreadsheet beginning on page 8, which is also included on the attached CD.