

AGREEMENT
BETWEEN
CITY OF GAINESVILLE and ALACHUA COUNTY
REGARDING FUNDING FOR AND CONSTRUCTION
OF
SENIOR RECREATION CENTER

THIS AGREEMENT is made and entered into this _____ day of _____, 2009, by and between the CITY OF GAINESVILLE (hereinafter referred to as the “City”), a municipal corporation of the State of Florida, and the COUNTY OF ALACHUA, a charter county and a political subdivision of the State of Florida (hereinafter referred to as the “County”).

WITNESSETH:

WHEREAS, the City and the County desire to provide increased programs and services to benefit the impact on the quality of life for seniors in the local community; and,

WHEREAS, the City and the County desire to cooperate in the construction of the Alachua County/City of Gainesville Senior Recreation Center, hereinafter referred to as “Project”, on City-owned property located at 5725 NW 34th Street, Gainesville, Florida, also known as Northside Park, Parcel No. 7879-003-004, more particularly described in Exhibit A attached hereto, and

WHEREAS, it is the intent that the Project will be managed by Eldercare of Alachua County, Inc. (ECAC) under a long term operating/lease arrangement and accessible to seniors in the community to provide a broad array of programs and services for seniors; and to provide a general support system to seniors and the local community; and

WHEREAS, it is the intent of that the Project will be open and accessible to all on a scheduled basis in providing traditional recreational programs and services; and

WHEREAS, the City and County have entered into an Interlocal Agreement, dated August 5, 2008, for the distribution of local government environmental lands, parks and recreation one-half percent

(1/2%) infrastructure sales surtax from the “Wild Spaces and Public Places” referendum to cooperate in providing funding of \$1,500,000 respectively from their perspective shares of surtax proceeds towards the capital costs of the Project; and

WHEREAS, the City and ECAC have co-sponsored a grant application for a Senior Recreation Center Fixed Capital Outlay Grant from the Florida Department of Elder Affairs in the amount of \$2 million dollars to provide grant funding for the construction of the Project.

NOW THEREFORE, in consideration of the covenants contained herein and the performance thereof, the parties do hereby agree as follows:

1. **Shared Responsibilities:**

- A. The City and the County agree to allow the City to serve as the lead agency on development and operation of this project with ECAC managing the Senior Recreation Center under a lease/operating agreement. The City and County will approve the final conceptual design plan for the senior recreation center.
- B. ECAC will provide to the City scheduled use of the facility for programming to include but not limited to afterschool, youth adult fitness, seminars, meetings, workshops, classes, and other traditional recreational programs and serves as further described in the attached lease and operating agreement. The Lease/Operating Agreement shall generally require that ECAC will be responsible for the building and its contents, including insurance, and maintenance of the remainder of the leasehold site. ECAC will be responsible for all utility and operating expenses directly related to the operations of the senior recreation center, as further provided in the lease and operating Agreement. The intent of the Project is to provide a broad array of programs and services for seniors; and to provide a general support system to seniors and the local community in accordance with City and County policies and practices. The City and County may use the Project during agreed upon times that will not interfere with senior activities and the City and County shall only be responsible for those expenditures associated with said hours of operation. This will permit the City and County to schedule the use of these recreational facilities for their organized programs, as applicable.

2. **City’s Responsibilities:**

The City agrees to perform the following services pursuant to this Agreement:

- A. The City will construct/develop this Project as generally provided in Exhibit B (Bldg/site Plan). In addition to design professionals and contractors engaged by the City, the City's General Services Department shall provide design/construction support to the Project. The City's General Services Department shall be paid for all costs related to providing design/construction support services to the Project. Payment for these services shall be charged directly to the funds allocated for this Project. Any and all invoices; and pay applications, or costs incurred that are being charged to the Project shall be approved by the City's General Services Department prior to the submission of the invoices to the City's Budget and Finance Department. Upon approval, the pay request will be forwarded to City's Budget and Finance Department for payment.
- B. The City will act as the fiscal agent for the Project and all funds from allocated from the parties shall be deposited with the City's Budget and Finance Department. The City's Budget and Finance Department will assume responsibility for the accounting and disbursement of all funds until the completion of the Project. The City's Budget & Finance Department shall be responsible for verifying, and tracking, any applicable requirements in regards to regulations and obligations of the grant and making sure they are incorporated into the contracts for the construction of the Project.
- C. The City shall retain all records relating to this Agreement and the Project for a period of five (5) years, and/or in accordance with the grant/contract agreement regulations, after the completion of all work performed on the Project. The parties to this Agreement shall make available to each other any and all records relating to this Agreement for copying and inspection upon written request. Furthermore, the parties to this Agreement shall make any records relating to this Agreement and the Project available at cost to any state, federal or regulatory authorities that may request to review inspect or copy said records.
- D. The City shall retain the ownership of the land for this Project. The City shall authorize ECAC to operate its Senior Center and maintain the building facilities and grounds contingent upon approval of a long term lease agreement defining the specific needs of the operation and maintenance of the Senior Recreation Center. The lease operating agreement will be in substantially the same form as Exhibit C.
- E. In accordance with the Interlocal Agreement, dated August 5, 2008, for the distribution of local government environmental lands, parks and recreation one-half percent (1/2%)

infrastructure sales surtax from the “Wild Spaces and Public Places”, the City shall provide a total of \$1,500,000 (\$750,000 in FY 2009 and \$750,000 FY 2010) toward the construction of the Project under the Wild Spaces and Public Spaces Program.

F. The City and ECAC are co-sponsors of the Senior Center Fixed Capital Outlay Grant from the Florida Department of Elder Affairs in the amount of \$2 million dollars for the construction of the Project. All funds under this grant shall be deposited with the City’s Budget and Finance Department and shall be disbursed in accordance with the grant/contractual agreement.

3. **County’s Responsibilities:**

A. In accordance with the Interlocal Agreement, dated August 5, 2008, for the distribution of local government environmental lands, parks and recreation one-half percent (1/2%) infrastructure sales surtax from the “Wild Spaces and Public Places”, the County shall provide a total of \$1,500,000 (\$750,000 in FY 2009 and \$750,000 FY 2010) toward the construction of the Project under the Wild Spaces and Public Spaces Program.

5. **Depository of Funds.** Within 30 days of the execution of this Agreement, and on a monthly basis thereafter, the City and County shall deposit its pro rata share of funds as the revenue is generated from the Wild Spaces and Public Places referendum into an interest bearing account identified by the City. Said funds shall solely be used to facilitate the construction of the Project. Any interest accrued in this account shall be accounted for and allocated to the Project.

6. **Default and Termination.** The failure of any party(s) to comply with any provision of this Agreement shall place the party(s) in default. Prior to terminating this Agreement, the non-defaulting party(s) shall notify the defaulting party(s) in writing. Such notification shall make specific reference to the provision, which gives rise to the default. The defaulting party(s) shall then be entitled to a period of fifteen (15) days in which to cure the default. In the event the default is not cured within the 15-day period, this Agreement may be terminated and the remaining funds will be distributed as provided in this section of the Agreement. The failure of either party(s) to exercise this right shall not be considered a waiver of such right in the event any further default or non-compliance.

In the event the Project does not proceed to construction in accordance with this Agreement, all unexpended non-grant funds plus any unexpended accrued interest shall be returned to the City and County based on the amount of funds deposited respectively.

7. **Effective Date and Term.** This Agreement and any amendments shall become effective upon approval by the City and the County. Except as otherwise provided herein, this Agreement shall continue in force and effect until Project completion or subject to termination as described in Section 6 above.

8. **Notice.** Except as otherwise provided in this agreement, any notice, request or approval, from either party to the other party must be made in writing and sent by certified mail, return receipt requested, or by personal delivery. For purposes of notice, City and County representatives are:

CITY: Russ Blackburn, City Manager
P O Box 490, Station 6
Gainesville, FL 32602
Phone: 352-334-5010
Fax: 352-334-3119

Fred Murry, Assistant City Manager
P O Box 490, Station 6
Gainesville, FL 32602
Phone: 352-334-5010
Fax: 352-334-3119

COUNTY: Randall Reid, County Manager
P.O. Box 2877
Gainesville FL 32602-2877
Phone: 352-374-5204
Fax: 352-338-7363

Richard Drummond, Assistant County Manager
P.O. Box 2877
Gainesville FL 32602-2877
Phone: 352-374-5204
Fax: 352-338-7363

9. **Severability.** If any provision of this Agreement is declared void by a court of law, all other provisions will remain in full force and effect.

10. **Third Party Beneficiaries.** This agreement does not create any relationship with, or any rights in favor of, any third party.

11. **Assignment of Interest.** Neither party will assign or transfer any interest in this Agreement without prior written consent of the other party.
12. **Survival of Provision.** Where applicable, the provisions of this Agreement shall survive the completion of development/construction.
13. **Successors and Assigns.** The City and the County each bind their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement.
14. **Non-Waiver.** The failure of any party to exercise any right in this Agreement shall not be considered a waiver of such right.
15. **Governing Law and Venue.** This Agreement is governed in accordance with the laws of the State of Florida. Venue shall be in Alachua County, Florida.
16. **Captions and Section Headings.** Captions and section headings used herein are for convenience only and shall not be used in construing this Agreement.
17. **Construction.** This agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the parties. It is recognized that all parties have substantially contributed to the preparation of this agreement.
18. **Attachments.** All exhibits attached to this Agreement are incorporated into and made part of this Agreement by reference.
19. **Amendments.** The parties may amend this Agreement only by mutual written Agreement of the parties.
20. **Entire Agreement.** This agreement constitutes the entire agreement and supersedes all prior written or oral agreements, understandings, or representations.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by proper officers.

ATTEST:

ALACHUA COUNTY, FLORIDA

J.K. "Buddy" Irby, Clerk of the Circuit Court

(SEAL)

By: _____
Chuck Clemons, Chairman
Board of County Commissioners

APPROVED AS TO FORM

Alachua County Attorney's Office

ATTEST:

CITY OF GAINESVILLE

Kurt M. Lannon, Clerk of the City Commission

By: _____
Pegeen Hanrahan, Mayor
City of Gainesville

APPROVED AS TO FORM

City Attorney

EXHIBIT "A"

NORTHSIDE PARK:

PARCEL A

A portion of Section 13, Township 9 South, Range 19 East, and a portion of Section 18, Township 9 South, Range 20 East, City of Gainesville, Alachua County, Florida; being more particularly described as follows:

Commence at the Southwest corner of said Section 18, Township 9 South, Range 20 East and run thence North $01^{\circ}40'40''$ West along the West boundary of said Section 18, a distance of 1,325.00 feet to the POINT OF BEGINNING;

thence South $87^{\circ}54'50''$ West, 142.74 feet to a point on the Southeasterly right-of-way line of State Road No. 121, also being known as NW 34 Street (100' R/W), said point lying on the arc of a curve concave Northwesterly and having a radius of 1,959.86 feet;

thence Northeasterly along said Southeasterly right-of-way line and along the arc of said curve through a central angle of $22^{\circ}25'10''$ an arc distance of 766.88 feet, said arc being subtended by a chord having a bearing and distance of North $36^{\circ}04'26''$ East, 762.00 feet; thence North $87^{\circ}54'50''$ East, 315.58 feet;

thence North $56^{\circ}07'54''$ East, 778.96 feet to a point on the Southwesterly right-of-way line of U.S. Highway No. 441, also being known as State Road No.'s 20 and 25 (150' R/W); thence South $47^{\circ}49'00''$ East, along said Southwesterly right-of-way, 1262.48 feet;

thence South $04^{\circ}11'30''$ East, 136.39 feet; thence South $87^{\circ}54'50''$ West, 2,204.31 feet to the POINT OF BEGINNING.

Containing 31.502 acres, more or less.

Note: Legal Description will need to be confirmed by City Attorney and County Attorney.