

**INTERLOCAL AGREEMENT  
BETWEEN ALACHUA COUNTY AND THE CITY OF GAINESVILLE  
FOR THE CONE PARK PROJECT**

This agreement is entered into this 23<sup>rd</sup> day of January, 2008 between Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "County" and the City of Gainesville, a municipal corporation of the State of Florida, hereinafter referred to as "City";

**WITNESSETH**

WHEREAS, the County and the City are authorized by §163.01, Florida Statutes, to enter into interlocal agreements to cooperatively and efficiently use their powers to provide public services that will advance the general health, safety and welfare of the citizens of Alachua County; and

WHEREAS, the City of Gainesville has requested funding from the County for the installation of permanent bleachers at the newly created Cone Park; and

WHEREAS, at its meeting on November 12, 2003, the Alachua County Tourist Development Council recommended that the County provide thirty-five thousand dollars for the installation of permanent bleachers at Cone Park; and

WHEREAS, on March 9, 2004 the County approved the allocation of \$32,935.00 of Tourist Development Tax funding for the installation of permanent bleachers at Cone Park; and

WHEREAS, the County finds that this project is in the best interest of its citizens by promoting tourism in the County and serves a public purpose; and

WHEREAS, §125.0104, Florida Statutes provides that Tourist Development Tax funds may be used for this purpose;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto do mutually agree as follows:

1. **Term** - Pursuant to §163.01(11), Florida Statutes, this agreement shall be deemed effective upon the recording of this agreement by the County in the public records of Alachua County and continue through September 30, 2008.

2. **Duties of the City** - The City shall have and perform the following duties, obligations, and responsibilities to the County:

A. Install aluminum bleachers permanently on site at Cone Park at the

track/soccer/football venue and/or the baseball/softball venue.

- B. Purchase and install bleacher(s) at Cone Park at a cost not to exceed \$32,935. During their useful life these bleachers(s) must remain on site at Cone Park. Once a track venue is constructed at some future date at Cone Park, the City will either relocate the purchased aluminum bleachers to the new track to be used as spectator seating, or the City will purchase additional aluminum bleachers, (with a minimum purchase value of \$32,935), and which will be permanently located at the track venue.
- C. Require any operator/contractor for Cone Park to secure and maintain liability insurance as specified in Exhibit A.
- D. Develop a partnership plan with the Gainesville Sports Organizing Committee for soliciting and hosting events suitable for Cone Park which bring visitors to Alachua County. The plan shall include a method for determining and reporting visitor impact of the sports arena on the County and be presented to the Visitors and Convention Bureau prior to receipt of final payment.
- E. Distribute Alachua County tourist attraction information provided by the Alachua County Visitors and Convention Bureau in connection with events at Cone Park.
- F. Recognize in a prominent place the Alachua County Tourist Development Tax as a funding source for the project.

3. **Compensation** – For all duties actually, timely and faithfully performed, the County will pay the City an amount not to exceed thirty-two thousand, nine hundred thirty-five dollars (\$32,935.00). Allowable expenses are restricted to costs associated with the purchase and permanent installation of aluminum bleachers at Cone Park. All expenditures reimbursed must be in accordance with section 125.0104(5)(a)(1), Florida Statutes.

4. **Method of Payment**

- A. The County may make a single advance payment in the amount of five thousand dollars (\$5,000) upon submission of an invoice from the City. The City will provide the County with acceptable documentation that the full amount of the advance was used as required by this agreement before the County will reimburse any additional expenses.
- B. The County may reimburse for expenses allowed under this agreement that were incurred prior to the execution of this agreement, but not prior to March 9, 2004.
- C. As a condition precedent for any payment, the City shall submit an invoice to the County requesting payment for services properly rendered. The City's invoice shall describe with reasonable particularity each service rendered, the date thereof, the person(s) rendering such service, and the amount paid. The City's invoice shall be accompanied by such documentation or data as the County may require in support of charges for which payment is sought. Each invoice shall bear the signature of the City, which signature shall constitute the City's representation to the County that the services

indicated in the invoice have reached the level stated, have been properly and timely performed as required herein, that the charges included in the invoice have been reasonably incurred in accordance with this agreement, that all obligations of the City covered by prior invoices have been paid in full, that the expenses have not been submitted to or reimbursed by the County or any other agency, that expenditures served a public purpose, and that the amount requested is currently due and owing, there being no reason known to the City that payment of any portion thereof should be withheld. The City shall submit invoices to the County at the following address:

Visitors and Convention Bureau  
c/o Roland Loog  
30 East University Avenue  
Gainesville, FL 32601

Payments for all sums properly invoiced shall be made in accordance with the provisions of Chapter 218, Part VII Florida Statutes ("Florida Prompt Payment Act") and the Alachua County Prompt Payment Procedure, available at:  
<http://www.co.alachua.fl.us/gov/dept/adminservices/purchasing/>

5. **Notice** – Except as otherwise provided in this agreement any notice of default or termination from either party to the other party must be in writing and sent by certified mail, return receipt requested, or by personal delivery with receipt. For purposes of all notices, City and County representatives are:

County: Roland Loog, Director,  
Visitors and Convention Bureau  
30 East University Avenue  
Gainesville, FL 32601

City: Russ Blackburn, City Manager  
City of Gainesville  
P.O. Box 490, Station 6,  
Gainesville, FL 32602-0490

A copy of any notice, request or approval to the County must also be sent to:

J.K. "Buddy" Irby  
Clerk of the Court  
Post Office Box 939  
Gainesville, FL 32602  
ATTN: Finance and Accounting

And to

Office of Management and Budget  
Attn: Contracts  
105 SE 1<sup>st</sup> Avenue, Suite 6

Gainesville, Florida 32607

6. **Default and Termination** – The failure of either party to comply with any provision of this agreement will place that party in default. Prior to terminating the agreement, the party claiming default will notify the other party in writing. This notification will make specific reference to the provision which gave rise to the default. The defaulting party will then have seven (7) days to cure the default.

The Director of the Visitors and Convention Bureau is authorized to provide written notice of default on behalf of the County, and if the default situation is not corrected within the allotted time, the County Manager is authorized to provide final termination notice on behalf of the County to the City.

The City Manager is authorized to provide written notice of termination on behalf of the City, and if the default situation is not corrected within the allotted time, the City Manager is authorized to provide final termination notice on behalf of the City to the County.

If funds to finance this agreement become unavailable, the County may terminate the agreement with no less than 48 hours notice to the City. The County will be the final authority as to the availability of funds. The County will pay for all work completed prior to any notice of termination.

7. **Return of Funds** - Any County funds not expended for the purposes described in Section 2 shall be returned to the County without the requirement of any demand or notice by the County.

8. **Project Records** - All records relating in any manner whatsoever to the project, which are in the possession of the City shall be made available to the County for inspection and copying upon written request of the County and shall be kept for a period of three (3) years after the completion of all work to be performed or as required by Chapter 119, Florida Statutes (Public Records) and schedules published by the Bureau of Archives and Records Management, whichever shall be greater. Additionally, said records shall be made available, upon request by the County to any state, federal, or other regulatory authorities and any such authority may review, inspect and copy such records, except as considered confidential under Chapter 119, Florida Statutes.

9. **Permits** - The City will obtain and pay for all necessary permits, permit application fees, licenses or any fees required.

10. **Laws & Regulations** - The City will comply with all laws, ordinances, regulations, and building code requirements applicable to the work required by this

agreement. The City is presumed to be familiar with all state and local laws, ordinances, code rules and regulations that may in any way affect the work outlined in this agreement. If the City is not familiar with state and local laws, ordinances, code rules and regulations, the City remains liable for any violation and all subsequent damages or fines.

**11. Indemnification - Liability** - The County, as a political subdivision of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions which in any way relate to or arise out of this agreement. The City, as a municipal corporation and political subdivision of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions which in any way relate to or arise out of this agreement. Nothing herein shall be construed as consent by any agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this agreement or as a waiver of sovereign immunity by any party to which sovereign immunity applies. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of §768.28, Florida Statutes.

Nothing contained herein shall constitute a waiver by the County or City of sovereign immunity or the provisions of §768.28, Florida Statutes. Furthermore, the parties agree that any duty of the County to indemnify or defend any entity under this contract is limited by the limits of liability set forth in §768.28, Florida Statutes. Specifically, neither the County or City shall be liable to pay a claim or a judgment, based on a duty to indemnify or defend and arising out of this contract, which exceeds the sum of \$100,000, or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the County arising out of the same incident or occurrence, exceeds the sum of \$200,000.

**12. Assignment of Interest** - Neither party will assign or transfer any interest in this agreement without prior written consent of the other party.

**13. Successors and Assigns** - The County and City each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this agreement.

**14. Independent Contractor** - In the performance of this agreement, the City is acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the County. The City is solely responsible for the means, method, technique, sequence, and procedure utilized by the City in the full performance of the agreement.

15. **Collusion** - By signing this agreement, the City declares that this agreement is made without any previous understanding, agreement, or connections with any persons, professionals or corporations and that this agreement is fair, and made in good faith without any outside control, collusion, or fraud
16. **Conflict of Interest** - The City warrants that neither it nor any of its employees have any financial or personal interest that conflicts with the execution of this agreement. The City shall notify the County of any conflict of interest due to any other clients, contracts, or property interests.
17. **Prohibition Against Contingent Fees** - The City warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the City to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the City any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement.
18. **Third Party Beneficiaries** - This agreement does not create any relationship with, or any rights in favor of, any third party.
19. **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.
20. **Non Waiver** - The failure of any party to exercise any right in this agreement shall not be considered a waiver of such right.
21. **Governing Law and Venue** - This agreement is governed in accordance with the laws of the State of Florida. Venue shall be in Alachua County.
22. **Attachments** - All exhibits attached to this agreement are incorporated into and made part of this agreement
23. **Amendments** - The parties may amend this agreement only by mutual written agreement of the parties. The County Manager is authorized to sign amendments to this agreement subject to guidelines previously adopted by the Board of County Commissioners.

24. **Captions and Section Headings** - Captions and section headings used herein are for convenience only and shall not be used in construing this agreement.


25. **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 both parties have substantially contributed to the preparation of this agreement.

26. **Entire Agreement** - This agreement constitutes the entire agreement and supersedes all prior written or oral agreements, understandings, or representations.

ALACHUA COUNTY, FLORIDA

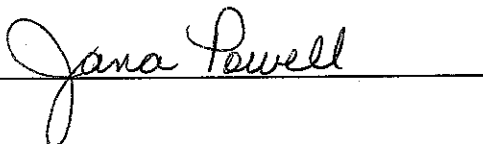
CITY OF GAINESVILLE, FLORIDA

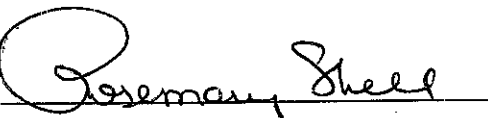
By:   
Randall Reid, County Manager

By:   
Russ Blackburn, City Manager

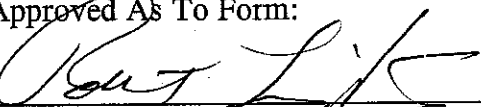
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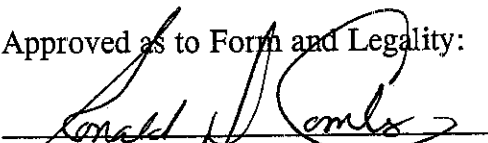
  
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Approved As To Form:

  
Alachua County Attorney's Office

Approved as to Form and Legality:

  
City Attorney

# **EXHIBIT A**

## **TYPE "A" INSURANCE REQUIREMENTS**

**Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors**

### **COMMERCIAL GENERAL LIABILITY**

Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, \$50,000 Fire Damage Liability and \$5,000 Medical Expense.

### **AUTOMOBILE LIABILITY**

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 combined single limit each accident.

### **WORKERS COMPENSATION AND EMPLOYER'S LIABILITY**

Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act.

Employer's Liability limits for not less than \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

### **BUILDER'S RISK / INSTALLATION FLOATERS**

**When this Agreement or agreement includes the construction of and/or the addition to a permanent structure or building; including the installation of machinery and/or equipment, the following insurance coverage must be afforded:**

Coverage Form: Completed Value, All Risk in an amount equal to 100% of the value upon completion or value of equipment to be installed.

When applicable: Waiver of Occupancy Clause or Cessation of Insurance clause.  
Flood Insurance as available under the National Flood Insurance Program.



**OTHER INSURANCE PROVISIONS** The policies are to contain, or be endorsed to contain, the following provisions:

**I Commercial General Liability and Automobile Liability Coverages**

a. The Alachua County Board of County Commissioners, its officials, employees and volunteers are to be covered as an Additional Insured as respects: Liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.

b. The Contractor's insurance coverage shall be considered primary insurance as respects the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employees or volunteers shall be excess of Contractor's insurance and shall be non-contributory.

**II Workers' Compensation and Employers' Liability Coverages**

The insurer shall agree to waive all rights of subrogation against the County, for losses arising from work performed by the Contractor for the County.

**III All Coverages**

The Contractor shall provide a Certificate of Insurance to the County with a Thirty (30) day notice of cancellation. The certificate shall indicate if cover is provided under a "claims made" or "per occurrence" form. If any coverage is provided under a claim made from the certificate will show a retroactive date, which should be the same date of the Agreement (original if contract is renewed) or prior.

**SUBCONTRACTORS**

Contractors shall include all subcontractors as insured under its policies. All subcontractors shall be subject to the requirements stated herein.