

AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 2005 by and between the City of Gainesville, a municipal corporation in Alachua County, Florida, hereinafter referred to as the City, and Keep Alachua County Beautiful, a Florida nonprofit corporation, hereinafter referred to as the Provider or the period October 1, 2005 through September 30, 2006.

WITNESSETH

WHEREAS, the City has agreed to identify in-kind services for the Great American Cleanup and general in-kind services and contribute funding to the Provider;

WHEREAS, the Provider has agreed to perform certain projects to keep the City of Gainesville beautiful; and

WHEREAS, it is in the interest of the City to enter into this agreement with the Provider to implement the projects set forth herein for the principal benefit of the residents of the City of Gainesville;

NOW, THEREFORE, in consideration of these mutual promises and covenants, the parties hereto agree as set forth in the following sections of this Agreement.

PROVIDER

1. The Provider is Keep Alachua County Beautiful, a not-for-profit corporation, chartered by the Secretary of State under the laws of the State of Florida.

COORDINATION

2. The Provider agrees to perform specified projects under the general coordination of the City of Gainesville Public Works Department Solid Waste and Operations Divisions, and the City of Gainesville Parks and Recreation Department. The Solid Waste Manager or designee is the City's representative under this Agreement.

NOTICES

3. Except as otherwise provided herein, any notice, approval, acceptance, request, bill, demand, or statement hereunder from either party to the other shall be in writing and shall be deemed to have been given when either delivered personally or deposited in the U.S. Mail in a postage-prepaid envelope, addressed to the other party. Either party may at any time change such address by delivering or mailing as aforesaid, to the other party a notice stating the changed address. The addresses of the City and Provider are as follows:

City
Paul F. Alcantar
Solid Waste Manager
City of Gainesville, Sta. 58
P.O. Box 490
Gainesville, FL 32602

Provider
Jeanne Rochford
Executive Director
Keep Alachua County Beautiful
P.O. Box 2774
Gainesville, FL 32602-2774

SCOPE AND SCHEDULE OF SERVICES

4. The Provider agrees to implement and/or facilitate the projects described in Attachment 1, Scope and Schedule of Services, for the principal benefit of persons residing in the City of Gainesville.

FUNDING AND PAYMENT PROCEDURES

- 5.1 The City agrees to a payment of \$30,000 to assist Keep Alachua County Beautiful in the recruitment and training of a new executive director.
- 5.2 The City agrees to pay a maximum amount of \$15,000 for membership, \$10,000 for Coordination of the Beautiful Block Program.
- 5.3 The City agrees to provide in-kind services as described in Attachment 2, City of Gainesville In-kind Services for the Great American Cleanup, and Attachment 3, City of Gainesville General In-Kind Services, in an amount not to exceed \$11,500.00.

REPORTING

- 6.1 Upon request, the provider shall report actions taken and data collected to ensure compliance with applicable Federal, State and local non-discrimination and affirmative action regulations.
- 6.2 Provider shall submit a quarterly report to the Solid Waste Manager updating the City on the progress and status of the agreed upon projects as described in Attachment 1.

AGREEMENT DURATION, EXTENSION AND TERMINATION

- 7.1 This Agreement shall become effective for the period from October 1, 2005 through September 30, 2006, unless terminated sooner in accordance with this Section.
- 7.2 In the event the City determines on the basis of a review of the Provider's performance that the provider has materially failed to comply with the requirements of this Agreement, the City may take one or more of the following actions as appropriate to the circumstance:

- a) Invoice Provider for the cost of services provided for the activities as described in Attachment 2, City of Gainesville In-kind Services.
- b) Wholly or partly suspend or terminate the Agreement,
- c) Withhold further funding from the Provider, or
- d) Take other remedies that may be legally available.

In each instance, the action taken will be designed to, first, prevent a continuance of the deficiency (lack of progress, non-conformance, non-compliance, lack of continuing capacity); second, mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiencies.

- 7.3 If the City determines that it is necessary to suspend performance under or terminate this Agreement, it may do so by giving written notice to the Provider of such suspension or termination and specifying the effective date thereof, at least ten (10) days before the effective date of such suspension or termination.
- 7.4 Except as provided in paragraph 7.2, this Agreement may be terminated in whole or in part by either party upon written notification to the other party, setting forth the reason(s) for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the City determines that the remaining portion of the Agreement will not accomplish the purposes for which it was made, the City may terminate the Agreement in its entirety as provided in paragraph 7.2 of this section.

CONFLICT OF INTEREST

8. No person who is an employee, agent, consultant, officer, or elected official or appointed official of the City or the Provider who exercises or has exercised any functions or responsibilities with respect to activities assisted with City funds or who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a City-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

INDEMNIFICATION

9. The provider shall act as an independent contractor and not as an employee of the City in implementing the aforementioned projects. The Provider shall be liable for and shall hold harmless the City, its employees, agents, or officers from all claims, suits, judgments, or damages arising from the administration by the Provider of the projects described in this Agreement. The City and each officer, agency, and employee shall be held harmless against all claims for personal injury, wrongful

death, or property damage caused by negligence of the Provider in performance of this Agreement.

INSURANCE

10. For the term of this Agreement, the Provider agrees to maintain in effect the following insurance coverage:

General Liability - \$500,000

Business Auto Liability - \$500,000

Workers' Compensation – As required by Florida Statute

Prior to effective date of this Agreement, the Provider shall provide to the City a certificate of insurance certifying such insurance and naming the City as additional insured there under to the extent of Provider's indemnity hereunder and that the City will be notified in writing at least thirty (30) days before any such insurance is canceled or materially changed.

SOVEREIGN IMMUNITY

11. The Provider and the City agree that nothing in this Agreement shall be interpreted as a waiver of the City's sovereign immunity under Section 768.28, Florida Statutes.

COMPLIANCE WITH FEDERAL, STATE AND LOCAL RULES, REGULATIONS AND LAWS

12. The Provider shall comply with all applicable laws, orders and regulations of the Federal, State and local governments as they pertain to this Agreement.

NON-DISCRIMINATION

13. In carrying out this Agreement, the Provider shall not exclude any person from participation, deny the benefits of the projects herein to any person, or subject any person to discrimination because of age, race, color, religion, sex, disability, national origin or familial status.

FINANCIAL OBLIGATION OF THE CITY

14. This Agreement is not a general obligation of the City, nor does it constitute a pledge of the full faith and credit of the City. In the event there are insufficient monies available in the General Fund to meet the obligations of the City created by this Agreement, the City will have no further obligations under this Agreement and shall not be considered in breach thereof.

ASSIGNMENT BY PROVIDER

15. The Provider shall not assign, transfer, convey, pledge, or otherwise dispose of this Agreement without the prior written consent of the City.

CHANGES

16. The City Manager/designee or the Provider may, from time to time, request changes in the scope and schedule of services to be performed hereunder. All changes must be agreed upon by the parties, be in writing, and be presented in advance of the proposed change. Such changes shall amend the relevant Scope of Services

SEVERABILITY

17. If any term or provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

SCOPE AND INTERPRETATION OF AGREEMENT

18. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the parties hereto to date, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, oral or written, except as herein contained.

COUNTERPARTS

19. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one in the same instrument.

GOVERNING LAW AND VENUE

20. This Agreement shall be construed in accordance with the laws of the State of Florida, venue in Alachua County, Florida.

IN WITNESS THEREOF, the parties have hereto set their hands and seals on the day and year aforesaid.

Witnesses:

CITY OF GAINESVILLE

By _____
City Manager

Witnesses:

KEEP ALACHUA COUNTY BEAUTIFUL

By: _____
Executive Director