

Resolution no. 050197
 Passed: July 25, 2005

A RESOLUTION OF THE CITY COMMISSION, OF THE CITY OF GAINESVILLE, FLORIDA; TO ENTER INTO AN URBAN AND COMMUNITY FORESTRY GRANT MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, trees are an important part of our community; and

WHEREAS, the City of Gainesville desires to apply for an Urban and Community Forestry Grant which would provide funding for a contract tree crew to supplement the work of the Recreation and Parks Department tree surgeons in pruning trees to improve wind resistance and in removing hazardous trees; and

WHEREAS, the City of Gainesville wishes to enter into an Urban and Community Forestry Grant Memorandum of Agreement between the City of Gainesville and the Florida Department of Agriculture and Consumer Services;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF GAINESVILLE, FLORIDA, THAT:

1. The City Commission supports the addition of a contract tree crew for 48 weeks to support the work of the municipal tree surgeons already on staff in pruning trees for structural stability and greater wind resistance and in removing hazardous trees from rights-of-way for which the City of Gainesville is responsible.
2. The City Commission hereby authorizes the City Manager to enter into an Urban and Community Forestry Grant Memorandum of Agreement between the City of Gainesville, Florida and the Florida Department of Agriculture and Consumer Services.

PASSED AND ADOPTED THIS 25th DAY OF July, 2005.


 PEGEEN H. HANRAHAN, MAYOR

ATTEST:


 KURT M. LANNON
 CLERK OF THE COMMISSION

Approved as to form and legality:


 MARION E. RADSON
 CITY ATTORNEY JUL 26 2005

EXHIBIT 1

URBAN AND COMMUNITY FORESTRY (U&CF) GRANT MEMORANDUM OF AGREEMENT

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This agreement, made and entered into this the 17th day of October, 2005 by and between the STATE OF FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, an agency of the State of Florida, hereinafter called the "Department" and the City of Gainesville Recreation and Parks Department, hereinafter called the Entity (Subrecipient).

WITNESSETH

WHEREAS, the Department desires to increase the application of the principles of urban and community forestry by granting funds to the Entity (Subrecipient) for the purpose as outlined in grant application Number 05H-52, included herein as Exhibit A and by reference made a part hereof:

WHEREAS, the Catalog of Federal Domestic Assistance (CFDA) number is 10.664;

WHEREAS, the Department and the Entity (Subrecipient) are of the opinion that the citizens of the state would benefit from the implementation of urban and community forestry projects that improve our communities through the proper care of trees and related plant materials;

WHEREAS, the Department has awarded the Entity (Subrecipient) an urban forestry grant for the specific project set forth in the U&CF Grant Application Number 05H-52, hereinafter the "project";

WHEREAS, the Entity (Subrecipient) by Resolution No. 050197, dated July 25, 2005, has indicated its support of the grant application and authorized its officers to execute this Agreement on its behalf;

WHEREAS, the parties hereto mutually recognize the benefits of such a project as described in the U&CF Grant application and the need for entering into an agreement designating and setting forth the responsibilities of each party;

NOW THEREFORE, for and in consideration of the mutual benefits that flow each to the other, the parties covenant and agree as follows:

- A. Failure by the Entity (Subrecipient) to sign and return this agreement, within 60 days upon receipt of the agreement, shall constitute forfeiture of the award
- B. The effective date of this agreement is OCTOBER 17, 2005
- C. The Entity (Subrecipient) shall complete the project by September 30, 2007 as set forth in the Urban and Community Forestry Grant Application Number 05H-52 approved by the Department on September 2, 2005, during which time the grant shall continue in effect. Criteria for the project is set forth therein. The final date by which such criteria must be met for completion of this agreement is September 30, 2007.

The project to be performed by the Entity (Subrecipient) shall be subject to periodic inspections by the Department. The Entity (Subrecipient) shall not change or deviate from the project without written approval by the Department.

- D. The Entity (Subrecipient) has estimated the project cost to be \$100,000 as shown on the grant application budget sheet attached as Exhibit B. The Department agrees to reimburse to the Entity (Subrecipient) the total sum of \$75,000 or seventy five percent

(75%) of the final approved project costs, whichever is less (the "Grant Amount"). The Grant Amount is limited to only those items which are directly related to this project as described in Exhibits "A" and "B". Project costs incurred as of October 13, 2004, are eligible for reimbursement. Project costs for which the applicant has already received reimbursement from any other source are not eligible for funding under this grant. FEMA or other federal funds can not be used to match funding received under this grant.

To assist the Entity (Subrecipient) with the initial three (3) months of implementation, the Department may make an advance of no more than 25 percent of the grant award. The Entity (Subrecipient) must request the advance payment in writing using forms provided by the Department. Funds provided as an advance payment must be placed in a non-interest bearing account. Only one advance payment will be made; thereafter, disbursements will be made on a reimbursement basis.

No more than 75 percent of the Grant Amount will be paid to the Entity (Subrecipient) prior to Certification of Acceptance by the Department. The final payment shall not be made until Certification of Acceptance is received from the Department. For installed plant materials, a sixty (60) day grow-in-period will be required after project completion. Certification of Acceptance by the Department may be requested sixty (60) days after project completion. Upon receipt of the Certification of Acceptance, the Entity (Subrecipient) may submit an invoice for final payment. The Entity (Subrecipient) must submit the final claim for reimbursement to the Department on or before November 15, 2007.

- (1) Purchases of \$2,500 to \$25,000 shall be carried out documenting two or more written quotations or written record of telephone quotations or informal bids to be opened upon receipt, whenever practical. Competitive sealed bidding is required for all purchases exceeding \$25,000. Justification must be provided for a sole source award or for an award to a vendor other than the vendor submitting the lowest bid or quote.
- (2) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof, and bills for travel expenses specifically authorized by this Agreement shall be submitted and paid in accordance with the rates specified in Section 112.061, Florida Statutes.
- (3) Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include all records of the costs of the Entity (Subrecipient) and subcontractors considered necessary by the Department for a proper audit of the project.
- (4) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida

Statutes, for CATEGORY TWO, for a period of 36 months from the date of being placed on the convicted vendor list.

- (5) The CONTRACTOR is informed that an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or a public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.
- E. The Entity (Subrecipient) agrees to maintain plant materials established as a part of the project for a period of three years and enter into an agreement which designates and sets forth the duties and responsibilities of the parties in maintaining the project.
- F. The Entity (Subrecipient) agrees to submit to the Department an interim report on project accomplishments **quarterly** (December 31, 2005, March 31, 2006, June 30, 2006 and September 30, 2006) and a final report summarizing project accomplishments as a prerequisite to final acceptance by the Department. Failure to submit a required report or submission of an unsatisfactory report is sufficient grounds for termination of this agreement according to the provisions of Section 7(b). The Entity (Subrecipient) upon project completion shall submit a news release to local newspaper media highlighting the successes of the project. *G-2 dl.*
- G. This Agreement may be terminated under any one of the following conditions:
- (1) The Department of Agriculture and Consumer Services shall have the right of unilateral cancellation for refusal by the Entity (Subrecipient) to allow public access to all documents, papers, letters or other material made or received by the Contractor in conjunction with the contract, unless the records are exempt from s 24(a) of Article I of the State Constitution and s 119.07(1), Florida Statutes.
 - (2) By the Department, if the Entity (Subrecipient) fails to perform its duties under this Agreement, following thirty (30) calendar days written notice by the Department.
 - (3) By either party following sixty (60) calendar days written notice.
 - (4) By both parties following the complete execution by both parties of an agreement to terminate this Agreement.
 - (5) Notice to Entity (Subrecipient): The Department shall consider the employment by any Entity (Subrecipient) of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this agreement. *G-2 dl.*
- H. Notwithstanding any provision of this Agreement to the contrary but subject to Subparagraph 7(b), in the event this Agreement is terminated before the Department has paid the Entity (Subrecipient) the entire Grant Amount, then the Department agrees to pay the Entity (Subrecipient) the entire Grant amount, if the project has been completed. If the project has not been completed, the Department shall pay to the Entity

(Subrecipient) a percentage of the Grant amount equal to the percentage of the project's completion.

- I. Extension of a contract for contractual services shall be in writing for a single period only not to exceed six (6) months and shall be subject to the same terms and conditions set forth in the initial contract. There shall be only one extension of a contract unless the failure to meet the criteria set forth in the contract for completion of the contract is due to events beyond the control of the Contractor. If initially competitively procured, contracts for contractual services may be renewed on a yearly basis for no more than three (3) years, or for a period no longer than the original contract, whichever period is longer. Renewal of a contract for contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract. Renewals shall be contingent upon satisfactory performance evaluations by the Department.
- J. As applicable under Florida Statute 768.28, each party will be liable under this paragraph for damages arising out of injury or damage to persons or property directly caused or resulting from the negligence of such party or any of its officers, agents or employees.
- K. The Entity (Subrecipient) certifies that neither it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded for participation in this grant program by any Federal department or agency
- L. This Agreement, together with any Maintenance Agreement, if executed, embodies the entire agreement and understanding between the parties hereto and there are no other agreements or understandings, oral or written, with reference to the subject matter hereof that are not superseded hereby.
- M. This Agreement may not be assigned or transferred by the Entity (Subrecipient), in whole or in part without the expressed written consent of the Department.
- N. This Agreement, regardless of where executed, shall be governed by and construed in accordance with the laws of the State of Florida.
- O. All notices, demands, requests or other instruments shall be given by depositing the same in the U.S. Mail, postage prepaid, registered or certified with return receipt requested, or by telex (FAX) or telegram:
 - (1) If to the Department, address to Program Coordinator, 3125 Conner Boulevard, Suite R-8, Forest Management Bureau, Tallahassee, Florida 32399-1650 or at such other address the Department may from time to time designate by written notice to the Entity (Subrecipient);
 - (2) If to the Entity (Subrecipient) addressed to:

Ms. Meg Niederhofer
City of Gainesville Recreation and Parks Department
Post Office Box 490, MS 27
Gainesville, Florida 32602

or at such other address as the Entity (Subrecipient) from time to time designates by written notice to the Department. All time limits provided hereunder shall run

from the date of receipt of all mailed notices, demands, requests and other instruments, or from the date telexed or faxed.

P. Time is of the essence of this agreement.

It is mutually understood and agreed that if this contract disburses grants and aids appropriations, it is:

Subject to the requirements of Section 216.347, Florida Statutes, a state agency, a water management district, or the judicial branch may not authorize or make any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency.

The following provisions of A through G are not applicable to procurement contracts used to buy goods or services from vendors, but are only applicable to a contractor subject to the Florida Single Audit Act.

- A. There are uniform state audit requirements for state financial assistance provided by state agencies to Nonstate entities to carry out state projects in accordance with and subject to requirements of Section 215.97, Florida Statutes (F.S.), which may be applicable to and binding upon Recipient. Nonstate entity means a local governmental entity, nonprofit organization, or for-profit organization that receives state resources. Recipient means a Nonstate entity that receives state financial assistance directly from a state awarding agency.
- B. In the event that the Recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such Recipient, the Recipient must have a state single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, F.S., applicable rules of the Executive Office of the Governor, rules of the Chief Financial Officer, and Chapter 10.600, rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, the Recipient shall consider all sources of state financial assistance, including state funds received from this Department resource, except that state financial assistance received by a Nonstate entity for federal financial assistance and state matching requirements shall be excluded from consideration.
- C. Audits conducted pursuant to Section 215.97, F.S., shall be: (1) performed annually, and (2) conducted by an independent auditor in accordance with auditing standards as stated in rules of the Auditor General.
- D. Regardless of the amount of the state financial assistance, the provisions of Section 215.97, F.S., do not exempt a Nonstate entity from compliance with provisions of law relating to maintaining records concerning state financial assistance to such Nonstate entity or allowing access and examination of those records by the state awarding agency, the Chief Financial Officer, or the Auditor General.
- E. If the Nonstate entity does not meet the threshold requiring the state single audit, such Nonstate entity must meet terms and conditions specified in this written agreement with the state awarding agency.
- F. Each state awarding agency shall:

which would relate to the undersigned Entity (Subrecipient) are available for review at the following address:

Department of Agriculture and Consumer Services
Division of Administration, Contract Administrator
Room 509, Mayo Building
Tallahassee, FL 32399-0800

If the undersigned Entity (Subrecipient) expends \$500,000 or more in federal financial assistance in a fiscal year, either directly from federal agencies or indirectly through other units of state or local governments or a combination thereof, the Entity (Subrecipient) shall have an audit made in accordance with the Office of Management and Budget Circular No. A-133 (Audits of State, Local Governments, and Non-profit Organizations). The \$500,000 threshold specified above shall be from all federal sources, not just the amount provided by this agreement. The undersigned Entity (Subrecipient) receiving funds under this agreement hereby agrees that it will allow the Department of Agriculture and Consumer Services and any federal agency to audit the Entity's (Subrecipient's) books for compliance with the above applicable circulars.

The Entity (Subrecipient) acknowledges and agrees that public use of all reports or other printed material, videos, audio recordings, films and photographs produced as part of this project shall not be restricted under the copyright laws of the United States of America. All products (brochures, signs, videos, etc.) funded by the Urban and Community Forestry Grant must display a statement that the material has been prepared using Urban and Community Forestry grant funds received through the Division of Forestry.

Entities (Subrecipients) providing goods and services to the Department should be aware of the following time frames. Section 215.422, Florida Statutes, provides that agencies have five (5) working days to inspect and approve goods and services, unless bid specifications or the purchase order specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within 40 days, measured from the latter of the date the invoice was received or the goods or services are received, inspected and approved, a separate interest penalty set by the Chief Financial Officer pursuant to Section 55.03, Florida Statutes, will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Agency's Fiscal Section at (850)488-2020 or Purchasing Office at (850) 488-7552. Invoices which have to be returned to an Entity (Subrecipient) because of Entity (Subrecipient) preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Entities (Subrecipients) who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-7269 or by calling the Department of Financial Services' Hotline, 1-850-410-9724.

The Entity (Subrecipient) is informed that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on an agreement to provide any goods or services to a public entity, may not submit a bid on an agreement with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under an agreement with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list

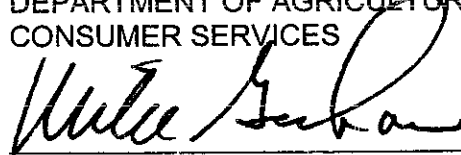
The Entity (Subrecipient) is informed that the Department shall consider the employment by an Entity (Subrecipient) of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this agreement.

The contractor is informed that an entity or affiliate who has been placed in the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES

BY:

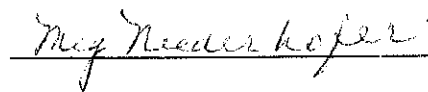


Director
Division of Administration

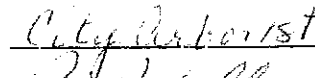
CITY OF GAINESVILLE RECREATION AND
PARKS DEPARTMENT

Name of Entity (Subrecipient)

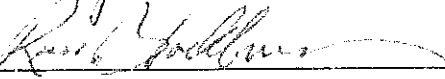
BY:



TITLE:



BY:



TITLE:

City Manager