

**CITY OF EL PASO, TEXAS
REQUEST FOR COUNCIL ACTION (RCA)**

DEPARTMENT: STREET

AGENDA DATE: February 1, 2005

CONTACT PERSON/PHONE: DARYL W. COLE 621-6750

DISTRICT(S) AFFECTED: All Areas

SUBJECT:

CONSENT AGENDA

That the Mayor be authorized to sign a Grant Agreement, including all understandings and assurances contained therein, between the City of El Paso, Texas and the Texas Forest Service, a member of the Texas A & M University System, for grant funds in the amount of \$20,000 to pay for establishing a professional Arborist position with the City. The City is responsible for matching funds or in-kind contributions in the amount of \$20,000.

BACKGROUND / DISCUSSION:

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

This was approved in 2004. To be considered for approval annually.

AMOUNT AND SOURCE OF FUNDING:

Cost: \$20,000

Funding Source: Texas Forest Service Arborist 07115, 3215 0046, 32000

BOARD / COMMISSION ACTION:

N/A

*******REQUIRED AUTHORIZATION*******

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD:

Daryl W. Cole, streets Director:  _____

cc: Pat Adauto, Deputy City Manager for Building & Planning Services

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Grant Agreement, including all understandings and assurances contained therein, between the City of El Paso, Texas (City) and the Texas Forest Service (TFS), a member of the Texas A & M University System, for grant funds in the amount of \$20,000.00 to pay for establishing a professional Arborist position with the City. The City is responsible for matching funds or in-kind contributions in the amount of \$20,000.00.

Section 1: That the City Council hereby authorizes the Streets Director to execute all agreements associated with the "Urban and Community Forestry Program" Grant with the Texas Forest Service.

Section 2: That the City Council commits to providing its share of the project costs through "in-kind" services as described in the grant application.

Section 3: That the City Council endorses and permits the planting of trees on public property under their jurisdiction in the City of El Paso County Texas.

ADOPTED this 1st day of February, 2005.

CITY OF EL PASO

Joe Wardy, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Guadalupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:



Daryl W. Cole
Streets Director

JOE WARDY
MAYOR

JOYCE WILSON
City Manager

LISA A. ELIZONDO
City Attorney



CITY COUNCIL

SUSAN AUSTIN, DISTRICT 1
ROBERT A. CUSHING, JR., DISTRICT 2
JOSE ALEXANDRO LOZANO, DISTRICT 3
JOHN F. COOK, DISTRICT 4
PRESI ORTEGA, DISTRICT 5
PAUL J. ESCOBAR, DISTRICT 6
VIVIAN ROJAS, DISTRICT 7
ANTHONY W. COBOS, DISTRICT 8

Office of the City Attorney

January 12, 2005

Mr. Peter D. Smith
Grants Administrator
Texas Forest Service
John B. Connally Building
301 Tarrow, Suite 364
College Station, TX 77840-7896

RE: Grant Number: 02-11-07
Project Title: City Arborist
Grant Award: \$20,000
Required Match \$20,000

Dear Mr. Smith:

Enclosed please find three originals of a grant agreement between the City of El Paso, Texas (City) and the Texas Forest Service (TFS) for grant funds in the amount of \$20,000.00 to pay for establishing a professional Arborist position with the City. We understand that the City is responsible for matching funds or in-kind contributions in the amount of \$20,000.00. Also enclosed is a copy of the City Council resolution of February 1, 2005, authorizing the Mayor to sign the agreement.

Also enclosed, please find a signed original document entitled: "Assurances: Non-Construction Programs" and a signed original document entitled: "Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements".

Please sign all three original agreements, retain two agreements and the resolution for your file and return one signed original agreement to this office for filing with the City Clerk.

Please feel free to call me should you have any questions. Thank you for your attention to this matter.

Sincerely,


Guadalupe Cuellar
Assistant City Attorney

Enclosures

STATE OF TEXAS)
)
COUNTY OF EL PASO) **GRANT AGREEMENT**

Urban Forestry Partnership Grant Program
A Cooperative Program Between the Texas Forest Service
And the USDA Forest Service

This Grant Agreement is hereby entered into by and between the City of El Paso, Texas, a municipal corporation, (“Grantee”), and Texas Forest Service (“TFS”), a Member of The Texas A&M University System.

Article 1. All funds must be used for the purposes stated below. Any modification of purpose, final product, grant award, or matching contribution must be requested in writing and approved by the TFS. Grantee must raise the entire balance of funds necessary to complete the budget as proposed, from non-federal sources.

Purpose: To establish a professional arborist position, responsible for constructing and managing a new city tree nursery to produce native tree species for city parks, streets, and other public facilities. The position would also be a liason with other city departments to assist with tree issues. Grant and local funds will cover the salary and benefit costs for the position.

Article 2. The \$20,000 grant will be paid on a reimbursement basis upon submission of approved cost records AND a project final report. Interim reports detailing partial project accomplishments and costs will be accepted for partial payment. The amount paid will equal 50% of the approved project costs, not to exceed either the grant amount or the out-of-pocket expenses. The Grantee shall be responsible for a minimum match of \$20,000, in eligible cash purchases or in-kind contributions.

Article 3. The Grantee shall be responsible for providing proof-of-payment records for all purchases and in-kind contributions. These include source documentation such as invoices, cancelled checks, paid receipts, payroll or time and attendance records, contract documents, and valuation letters for third-party in-kind contributions. Cost records must be retained for three years following conclusion of the project.

Article 4. The Grantee must provide the TFS with an official resolution passed by its governing body that authorizes its representative to execute any agreements associated with this grant and commits the organization to the matching contribution as proposed in the grant application and listed above.

Article 5. Applicable federal cost principles (attached OMB A-87 for local governments, OMB A-21 for higher education institutions, or OMB A-122 for nonprofit groups), administrative requirements (attached 7 CFR Part 3016 or 7 CFR Parts 3015/3019), and the Grantee’s application will be followed in determining reasonableness, allowability, and allocation of costs.

Grantee's procurement procedures must conform to standards defined in these documents and Grantees receiving \$300,000 or more in federal funds must comply with federal Single Audit Act requirements, as detailed in circular OMB A-133.

Article 6. The Grantee agrees to comply with all applicable federal laws, as specified in the attached Assurances for Non-Construction Programs. Grantee must certify that they have not been debarred from this or any other federal program, must comply with federal drug-free workplace requirements, and must comply with restrictions on lobbying Congress.

Article 7. The Grantee shall submit a final project performance report, a financial summary with supporting documentation, and a copy of any product developed through the grant within 60 days of project completion, or by November 30, 2003, at the latest. (If required, a copy of the Single Audit report covering the grant period must also be submitted.)

Article 8. The State Forester and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of the Grantee which are pertinent to the grant in order to make audits, examinations, excerpts, and transcripts.

Article 9. (For tree planting projects only.) The Grantee must provide the TFS with a resolution or letter from the governing body of the entity that owns the property where the trees are to be planted. This document must grant permission to the Grantee to install this planting and commit to providing reasonable protection for the trees.

Article 10. (For tree planting projects only.) Exhibit A (Tree Planting Maintenance Specifications), attached hereto and incorporated for all purposes, must be followed and will be used by the TFS to measure performance by the Grantee. Trees must be maintained for three full years following planting. The Grantee must replace any dead trees within the period of this Agreement if the number of live trees falls below 90% of the original number planted and included in project cost reports.

Article 11. If a Grantee materially fails to comply with any term of this award, as stated above, the TFS may temporarily withhold cash payments pending correction of the deficiency by Grantee, disallow all or part of the cost of the activity or action not in compliance, wholly or partly suspend or terminate the current award for the Grantee, withhold further awards for the program, demand repayment of the grant, or take other legally available remedies.

Article 12. The Grantee may terminate this entire Agreement, without cause, prior to the expiration of the grant period, upon thirty (30) days written notice. Upon cancellation of this Agreement and release or return of the unexpended grant funds, the Grantee is fully released of all obligations under this Agreement.

Article 13. The Grantee agrees to hold the Texas Forest Service (TFS) harmless from any injury to person or property occurring in connection with project operations by Grantee, its agents, or employees, to the extent allowed by law.

Article 14. If any part of this Agreement shall be deemed to be or shall, in fact, be invalid, inoperative, or unenforceable as applied, such circumstance shall not have the effect of rendering any other provision of this Agreement invalid, inoperative, or unenforceable to any extent whatever.

Acceptance: We accept this grant subject to the terms and provisions stated above.

ADOPTED this 1st day of February, 2005.

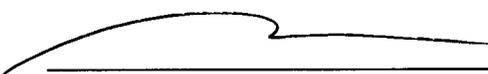
**THE CITY OF EL PASO
(GRANTEE):**

Joe Wardy
Mayor

ATTEST:

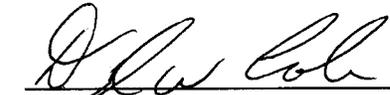
City Clerk

APPROVED AS TO FORM:



Guadalupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:



Daryl W. Cole
Streets Director

**TEXAS FOREST SERVICE (TFS)
(GRANTOR):**

James B. Hull
State Forester

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with the certification requirements under 7 CFR 3018, "New Restrictions on Lobbying," and 7 CFR 3017, "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the USDA Forest Service determines to award the covered transaction, grant, or cooperative agreement.

1. Lobbying

As required by Section 1352, Title 31, of the U.S. Code, and implemented at 7 CFR 3018, for persons entering into a grant or cooperative agreement over \$100,000 as defined at 7 CFR 3018.105 and 3018.110, the applicant certifies that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 7 CFR 3017, for prospective participants in primary covered transactions, as defined at 7 CFR 3017, Sections 3017.105 and 3017.110--

1. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (Federal, State, or local) with commission of any offenses enumerated in paragraph (1)(b) of this certification; and

2. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 7 CFR 3017, Subpart F, Section 3017.600 Purpose for grantees, as defined at 7 CFR 3017, Section 3017.605 and 3017.610-

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about--

- (1) The dangers of drug abuse in the workplace;

- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Name of Applicant

CITY OF EL PASO

GRANT NO. 04-11-07

Organization Name

PR/Award Number and/or Project Name

DARYL W. COLE, STREETS DIRECTOR

Printed Name and Title of Authorized Representative

Daryl W Cole

Signature

1/20/05

Date

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET.
SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE CITY OF EL PASO STREETS DIRECTOR
APPLICANT ORGANIZATION CITY OF EL PASO	DATE SUBMITTED 