



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: James R. Helmer

SUBJECT: SEE BELOW

DATE: 09-15-08

Approved

Date

9/16/08

COUNCIL DISTRICT: Citywide

SUBJECT: OUR CITY FOREST 2008-2009 OPERATING GRANT AND MATCHING GRANT AGREEMENTS

RECOMMENDATION

Adoption of a Resolution authorizing the City Manager to negotiate and execute the following grant agreements with Our City Forest:

- (a) An Annual Operating Grant Agreement for 2008-2009, not to exceed One-Hundred Fifty-Nine Thousand (\$159,000) dollars;
- (b) A Matching Grant Agreement in an amount not to exceed One-Hundred Twenty Thousand (\$120,000) dollars for Our City Forest to apply towards its local match required for the AmeriCorps Grant.

OUTCOME

Approval of the above recommendation will support Our City Forest (OCF), a 501(c)3 non-profit corporation, in its pursuit and acceptance of grants from the State of California and other agencies to enhance and expand urban forestry activities in San José.

BACKGROUND

The City of San José initiated the establishment of OCF as a community based non-profit organization in 1991 to help the City meet its urban forestry goals, including increasing public awareness, building the capacity within the community for proper tree planting and care, and leveraging additional funds for urban forestry services. For each of the last 17 years, the City has provided an annual operating grant to OCF that provides base funding and assists OCF in its pursuit of additional tree planting and urban forestry grants from other funding sources. In turn, OCF uses these additional grants to organize and implement tree planting projects in the public

right of way, at many City facilities, in City parks, and on school grounds within San José; conduct research; and to perform public outreach and education activities that enhance, promote and protect a healthy urban forest.

ANALYSIS

2008-2009 Operating Grant

In order for OCF to continue to be an effective extension of City tree services and to obtain grants from other agencies, the Department of Transportation included \$149,000 in its 2008-2009 approved budget for an operating grant to OCF. This grant will provide base funding for OCF operations related to fund development, finance and grants administration. As part of this grant, OCF will be required to obtain grants for planting at least 1500 public and private trees in San José during 2008-09 which will directly support San Jose's Green Vision of planting 100,000 trees. OCF will also continue to perform valuable public outreach and education activities that enhance, promote and protect a healthy urban forest.

An additional \$10,000 is being allocated for OCF to locate, plant, and maintain 30 street trees in some of the older industrial areas of San Jose that currently have very little tree canopy coverage, in support of the Green Vision goals.

Matching Grant

In 2007, OCF received a three-year Federal grant of approximately \$1.2 million to assist the City by helping to build a stronger urban forest through training, education, young tree care and planting. The City provided a matching sum of \$120,000 in 2007-08. It is proposed that the City provide a second year of matching funding of \$120,000 for the AmeriCorps program, which funds the hiring of 22 new trainees to provide urban forestry services to the neighborhoods. Each AmeriCorps trainee receives 350 hours of vocational training in the field and classroom. They are each expected to provide 1,400 hours of community service supervised by a certified arborist/urban forester and, upon completion of their 10 month service, each trainee will have earned a \$15,000 stipend. The first year of the program was very successful, with 19 of the initial 22 trainees successfully graduating and completing their community service commitment for the year.

The AmeriCorps trainees will also provide valuable assistance to the City in its development of a citywide street tree inventory by identifying the number, location and width of vacant street tree planting sites in a pilot program designed to work towards meeting Action 11 of the Urban Environmental Accords, which has a goal of planting 50% of the available street tree planting sites.

EVALUATION AND FOLLOW-UP

The proposed OCF grant agreements include performance measures and other special provisions to provide adequate accountability. In general, the operating and matching grant agreements allow for two payments to OCF. The first payment of approximately 60% of the total value of this agreement will occur upon signature and proof of insurance. The second installment of approximately 40% will occur on or about March 1, 2009, if the milestones noted below and in the grant agreements are on schedule for completion.

The following is a summary of the key performance measures and special provisions in the Operating Grant agreement:

- OCF must be on schedule to complete planting of at least 1500 trees by September 30, 2009.
- OCF must submit required financial reports by February 1, 2009.
- OCF will plant by December 31, 2008, and maintain until October 15, 2009, thirty (30) street trees in the older industrial areas of Zip Code 95112. This is currently an area with very little tree canopy coverage.

The following is a summary of the key performance measures and special provisions in the Matching Grant agreement:

- OCF will enroll at least 22 trainees in the AmeriCorps program by November 1, 2008.
- OCF must be on schedule to graduate at least 15 trainees by August 31, 2009.
- OCF will update the Green San Jose federal grant training curriculum, handbooks and timelines.
- OCF will assist the City in the development of a citywide tree inventory pilot program identifying the location of vacant street tree planting sites in Zip Code 95122, which is an area with extensive Strong Neighborhood Initiative presence.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or

a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The proposed agreements do not meet any of the criteria above; however, this memorandum will be posted on the City's website for the October 7, 2008 Council agenda. This report and the recommended actions have been coordinated with the Executive Director and the Board of Our City Forest.

COORDINATION

This report has been coordinated with the City Manager's Budget Office, the Department of Planning, Building, and Code Enforcement Department, the City Attorney's Office and Our City Forest.

FISCAL/POLICY ALIGNMENT

The proposed agreements support the City's Green Vision and goals for energy-reduction, watershed protection, air quality, tree planting and urban forestry community education. They also support the Council-approved Cool Communities Directive to promote efforts to reduce the urban heat island effect and strive to fulfill the City's commitment to the Urban Environmental Accords, Action 11, to plant 50% of the available sidewalk tree planting sites by 2012. These recommendations are also consistent with the Council-approved Budget Strategy General Principles section in that it leverages volunteer efforts and delivers services through appropriate community partnerships.

COST SUMMARY/IMPLICATIONS

The cost for the OCF operating grant and AmeriCorps matching grant are budgeted in the 2008-2009 Adopted Operating Budget for the Department of Transportation. The recommended actions have no future cost implications.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the grant agreements with OCF as recommended in this memo.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contracts/Improvements	2008-2009 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	0512	Non-Personal/Equipment – Department of Transportation	\$12,574,444	\$120,000	N/A	N/A
446	0512	Non-personal/Equipment – Department of Transportation	\$2,707,280	\$149,000	N/A	N/A
001	3631	San Jose Green Vision	\$900,000	\$10,000	N/A	N/A
Total Current Funding Available			\$16,181,724	\$279,000		

CEQA

Exempt, File No. PP04-313

for James R. Helmer
 JAMES R. HELMER
 Director of Transportation

For questions please contact Ralph Mize, City Arborist, at (408) 277-2756.



**MATCHING GRANT AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
OUR CITY FOREST
(FY 2008-2009)**

This Matching Grant Agreement ("Agreement") is made and entered into this _____ day of _____, 2008, by and between the CITY OF SAN JOSE, a municipal corporation of the State of California ("City") and OUR CITY FOREST, a California nonprofit corporation ("Grantee").

RECITALS

WHEREAS, Grantee, as a nonprofit corporation, is involved in Urban Forest programs in the City of San José; and

WHEREAS, City desires for Grantee to actively solicit and obtain Urban Forestry grants from other agencies, specifically, the State of California administered Federal AmeriCorps grant; and

WHEREAS, in an effort to assist Grantee in securing the Federal AmeriCorps grant, City wishes to award a grant to Grantee for Grantee to apply to the local match requirement for the second year of the Federal AmeriCorps grant; and

WHEREAS, City's Director of Transportation (the "Director") is charged with the responsibility of administering this Agreement on City's behalf;

NOW, THEREFORE, the parties agree as follows:

SECTION 1. AUTHORITY AND STATUS OF GRANTEE

Grantee represents and warrants that the information contained in this Agreement is true and accurate to the best of its knowledge; and that it is a duly organized validly existing nonprofit corporation in good standing under the laws of its place of incorporation; that its signatory to this Agreement is authorized by resolution, by laws, or constitution of the nonprofit corporation, currently, in full force and effect, to execute this Agreement on Grantee's behalf.

SECTION 2. TERM OF AGREEMENT.

This Agreement shall be for a term commencing on October 16, 2008 and expiring on October 15, 2009, unless otherwise terminated earlier as provided for in this Agreement.

SECTION 3. RELATIONSHIP OF PARTIES.

Under no circumstances will this Agreement be construed as one of agency, partnership, joint venture or employment between Grantee and City. Each party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other party in any way.

SECTION 4. PAYMENT AND EXPENDITURE OF GRANT AWARD.

A. City agrees to pay Grantee a total grant in an amount not to exceed One-Hundred Twenty Thousand Dollars (\$120,000) ("Grant Award"), for Grantee to apply towards its second year matching fund requirement for the AmeriCorps Grant. City will pay the Grant Award to Grantee in two (2) installments; the first, in the amount of Eighty Thousand (\$80,000) dollars, the second, in the amount of Forty Thousand, (\$40,000) dollars.

1. As a condition precedent to the City's payment of the first installment of the Grant Award, immediately upon execution of this Agreement, Grantee shall submit to the City evidence of the insurance coverage required by Section 16 of this Agreement.

2. As a condition precedent to the City's payment of the second installment of the Grant Award, on or before March 1, 2009, Grantee shall submit to the City, for review and approval: a status report, consisting of a summary of progress in accomplishing the AmeriCorps grant goals and performance measures as outlined in "Exhibit A" (Matching Grant Program), attached hereto and incorporated herewith and, monthly Financial Reports and a Mid-Year Performance Report, as specified below in Sections 6, 7, and 9.

B. Grantee shall expend the Grant Award on the program set forth in the attached Exhibit A.

C. If any of the Grant Award remains unexpended at the expiration of this Agreement, the Director may, at the Director's sole option, extend the term of this Agreement, or alternatively, require Grantee to repay any amounts remaining unexpended.

SECTION 5. WITHHOLDING OR CANCELLATION OF PAYMENTS.

City may elect to suspend or to cancel payment to Grantee, in whole or in part, in the event of any of the following occurrences:

1. If the Grantee is in default under any provisions of this Agreement.
2. If the Grantee makes ineffective or improper use of any City funds in the provision of programs and services.
3. If Grantee fails to comply with any of the terms and conditions of this Agreement.
4. If Grantee submits to City any report that in any material respect is incorrect, incomplete or misrepresents information.
5. If Grantee loses its nonprofit status.

SECTION 6. ACCOUNTING AND FINANCIAL RECORDS.

Grantee shall establish and maintain at all times, on a current basis in connection with the provision of the Matching Grant Program, an adequate accounting system in accordance with generally accepted accounting principles and standards and acceptable to Director covering all revenues, costs, and expenditures with respect to Grantee's performance under this Agreement.

SECTION 7. FINANCIAL REPORTS.

A. Grantee shall submit reports of all financial transactions related to Grantee's performance under this Agreement ("Financial Reports") in accordance with the schedule specified in this Section: February 1, 2009 and October 15, 2009. The Financial Reports shall be submitted in duplicate to the Director. The format of the Financial Reports shall be as directed by the Director. In lieu of generating a consolidated quarterly report, the Grantee may instead submit, in strict accordance with the above schedule, a report covering each of the months in the reporting period, which includes a Standard Balance Sheet and Standard Income and Expense Statement for each of the months in the reporting period. The Financial Reports must be prepared in accordance with generally accepted accounting principles.

B. Grantee shall also submit a final report of all financial transactions related to this Agreement no later than October 15, 2009 ("Final Report"). The Final Report must be prepared and certified by a certified public accountant in accordance with generally accepted auditing principles.

C. Grantee shall submit a copy of their Federal Internal Revenue tax return for the fiscal year 2008 verifying the Grantee's 501c (3) status no later than October 15, 2009.

SECTION 8. CONTRACTOR'S FINANCIALS.

A. City Council requires that each non-profit organization receiving \$200,000 or more in funds from the CITY or Redevelopment Agency (in the aggregate) during any fiscal year which is either (i) grant funding other than construction funding and/or (ii)

operating subsidy funding for operation of CITY facilities, must prepare and make available for public view on the internet, annual audited financial statements. The audited financial statements must be made available for view within 6 months from the end of the non-profit's fiscal year (which period may be extended by the City Manager based upon a showing of hardship or other good cause) and must be viewable by the public at no cost. All audits must be performed by a certified public accountant currently licensed to practice in the State of California, must conform to generally accepted auditing standards and otherwise be in a form acceptable to the City Manager.

B. Non-profits shall be required to comply with this requirement at the time that the non-profit has entered into one or more grant agreements or subsidy agreements with the CITY and/or Redevelopment Agency, which provide for the payment of an aggregate amount that equals or exceeds \$200,000 in grant and/or subsidy funds in any one fiscal year. Non-profits covered by this requirement must exert due diligence in determining when they have reached the aggregate funding threshold of \$200,000. The provisions of the financial posting requirements shall be interpreted broadly to effectuate the purpose of making available to the public information on recipients of substantial CITY and/or Redevelopment Agency funds. These provisions shall apply not only to grant agreements or operating agreements but shall also apply, without limitation, if any amendments to such agreements brings the total annual funding to equal or exceed \$200,000, and also to any other agreements with the CITY and/or Redevelopment Agency that are equivalent in purpose to a grant agreement or an operating subsidy agreement, regardless of the title of the agreement.

C. This posting requirement shall remain in effect until an entire fiscal year passes in which the non-profit does not have contracts with the CITY and/or Redevelopment Agency which provide for grants and/or subsidies from the CITY and/or Redevelopment Agency in an aggregate amount equaling or exceeding \$200,000. Without limitation of any other remedy, Grantee's failure to comply with this requirement may be taken into consideration when evaluating Grantee's request for future grant funds or subsidies.

SECTION 9. PERFORMANCE REPORTS.

In addition to the Financial Reports required by Section 7, Grantee shall also submit to the Director reports that documents Grantee's performance ("Performance Reports"), as measured by the performance measures set forth in Exhibit A. The dates for submission of Performance Reports shall be the same as those established for Financial Reports specified in Section 7.

SECTION 10. RIGHT OF EXAMINATION AND AUDIT.

Grantee agrees that the City's Manager, Auditor, Attorney or the Director, or any of their duly authorized representatives, shall have access to and the right to examine all facilities and activities of Grantee related to Grantee's performance of this Agreement, including the right to audit, examine and make excerpts or transcripts of all contracts, subcontracts, invoices, payroll records, personnel records, and all other data or financial records relating to matters covered by this Agreement at any time. Grantee further agrees that such right of City to examine or audit shall continue for three (3) years after the expiration or termination of this Agreement, or for such longer period, if any, as is required by applicable law.

SECTION 11. PRESERVATION OF RECORDS.

Grantee shall preserve and make available its records related to its performance of this Agreement (a) until the expiration of three (3) years from the date of final payment to Grantee under this Agreement, or (b) for such longer period, if any, as is required by applicable law.

SECTION 12. REIMBURSEMENT TO CITY.

Grantee agrees to pay to City, within fifteen (15) days after City's written notice to Grantee, any portion of the Grant Award paid by the City to Grantee which the Director has determined is a Disallowed Cost.

SECTION 13. INDEPENDENT CONTRACTOR.

A. The parties agree that Grantee and Grantee's employees shall be at all times independent contractors and not agents or employees of the City, and that Grantee and Grantee's employees shall not be entitled to any salary, fringe benefits, pension, Workers' Compensation, sick leave, insurance or any other benefit or right connected with employment by the City of San José, or any compensation other than as prescribed herein, and Grantee and Grantee's employees expressly waive any claim it/they may have to any such rights.

B. Under no circumstances shall this Agreement be construed as one of partnership, joint venture or employment between Grantee and City. Each party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other party in any way.

SECTION 14. ASSIGNMENT BY GRANTEE.

Any assignment or attempt to assign this Agreement by Grantee without Director's written authorization shall constitute a material breach for which City may automatically terminate this Agreement without prior notice.

SECTION 15. INDEMNIFICATION AND HOLD HARMLESS.

Grantee shall protect, defend, indemnify and hold harmless City, its officers, employees and agents against any loss, liability, damage, suits, actions or claims arising out of or relating in any way to Grantee's performance under this Agreement, including its use of any Office Space, due to the willful or negligent acts (active or passive) or omissions by Grantee's officers, employees, volunteers or agents. The acceptance of Grantee's performance under this Agreement by City shall not operate as a waiver of such right of indemnification. This Section shall survive expiration or sooner termination of this Agreement.

SECTION 16. INSURANCE REQUIREMENTS.

At Grantee's sole cost and expense, and for the entire term of this Agreement,

Grantee shall obtain and maintain in full force all of the insurance requirements set forth in Exhibit B, attached hereto and incorporated herewith. All policies, endorsements, certificates and/or binders will be subject to approval by the Director of Finance or the Director's authorized designee ("Risk Manager") as to form or content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. Grantee agrees to provide City with a copy of said policies, certificates and/or endorsements upon execution of this Agreement as a condition of the City's first installment of the grant award.

SECTION 17. NONDISCRIMINATION BY GRANTEE.

In the performance of this Agreement, Grantee shall not discriminate, in any way, against any employee or applicant for employment because of race, sex, color, age, religion, sexual orientation, disability, actual or perceived gender identity, ethnicity or national origin, nor shall Grantee, in the providing of service hereunder, discriminate against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, actual or perceived gender identity, ethnicity or national origin.

SECTION 18. COMPLIANCE WITH ALL LAWS.

A. Grantee shall comply with all applicable City, state and federal laws, regulations and rules related to the operation of Program, including but not limited to laws, regulations and rules applicable to health, safety and equal opportunity employment.

B. Grantee recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that Grantee may be subject to payment of property taxes levied on such interest and any such tax shall be the liability of and be paid by Grantee.

SECTION 19. EFFECT OF WAIVER.

The waiver by City of any breach of any term, covenant or condition of this Agreement shall not be deemed a waiver of such term, covenant or condition or a waiver of any

subsequent breach of such term, covenant or condition. The consent or approval by City to any act by Grantee requiring City's approval or consent shall not be deemed to waive provisions for City's approval or consent or any subsequent acts by Grantee.

SECTION 20. BREACH.

A. Grantee's performance of each and every provision of this Agreement is an integral part of the consideration for City to enter into this Agreement. Grantee's failure to perform any of the provisions of this Agreement shall constitute a material breach for which City, in addition to any other rights or remedies available to City, may immediately terminate this Agreement upon written notice to Grantee.

B. City, at City's sole option, may elect to provide written notice of the breach of this Agreement and a time period in which Grantee may cure the specified breach. In the event that Grantee fails to cure the specified breach within the time period specified, City may terminate this Agreement.

SECTION 21. TERMINATION WITHOUT CAUSE.

A. This Agreement may be terminated by either party upon giving to the other party seven (7) days written notice of termination. In the event such notice of termination is given, this Agreement shall be deemed terminated and at end seven (7) days after written notice is given.

B. The Director is authorized to decide on the part of City, that this Agreement is to be terminated and to furnish written notice thereof, either under this section or Section 21.

C. No later than thirty (30) days of Grantee's receipt of City's termination notice under this Section or Section 21, Grantee shall refund the unused portion of the Grant Award to City; except that Grantee shall have no obligation to refund to City any portion of the grant award that the City determines was spent in accordance with the

terms of the Agreement. Additionally, Grantee shall provide City with an accounting of its expenditure of the Grant Award as set forth in Section 7.

SECTION 22. NOTICES.

A. Any and all notices which either party desires or is required by this Agreement to give or furnish to the other party shall be personally delivered or deposited in the United States mail, postage prepaid, addressed as follows:

CITY: City of San José—Department of Transportation
Attention: Our City Forest – Project Manager
200 East Santa Clara Street, 8th Floor Tower
San José, CA 95113-1905

GRANTEE: Our City Forest
151 West Mission Street
San José, CA 95110

B. The parties may change their respective addresses for purposes of delivering notices by sending notice of such change pursuant to this section.

C. Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the United States mail.

D. Grantee's primary contact with City shall be the project manager appointed by the Director. Grantee shall submit all correspondence and communication regarding this Agreement to City through the project manager.

SECTION 23. ACKNOWLEDGEMENT OF CITY.

Grantee will acknowledge the support of City, where appropriate, in written documents and informational material regarding the grant project.

SECTION 24. MISCELLANEOUS PROVISIONS.

A. The parties agree that this Agreement shall be governed and construed in accordance with the laws of the State of California. In the event that suit is brought by either party to this Agreement, the parties agree that venue will be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

B. The headings of the sections and subsections of this Agreement are inserted for convenience only. They do not constitute a part of this Agreement and shall not be used in its construction.

C. The waiver by any party to this Agreement of a breach of any provision of this Agreement will not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

D. Any and all exhibits that are referred to in this Agreement are incorporated herein by reference and are deemed a part of this Agreement. This Agreement may only be amended by formal written agreement executed by both parties.

E. If a court of competent jurisdiction adjudges any provision of this Agreement as void or unenforceable, the remaining provisions shall not be affected hereby and shall remain in full force and effect.

F. Where performance is specified to be performed on or before a date certain, time shall be of the essence.

G. Where this Agreement refers to City and no officer of the City is named, the Director of the City's Department of Transportation will have the authority to act on City's behalf.

WITNESS THE EXECUTION HEREOF, the day and year first herein above written.

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

ANGELIQUE GAËTA NEDROW
Deputy City Attorney

By: _____
DEANNA J. SANTANA
Deputy City Manager

OUR CITY FOREST, a California non-profit corporation

By: _____

RHONDA BERRY
Executive Director
Fed. I.D. 77-0371911

EXHIBIT A

MATCHING GRANT PROGRAM

A. FEDERAL AMERICORPS GRANT PROGRAM DESCRIPTION.

1. Grantee applied for and obtained a \$1 million, three-year grant for its Green San José initiative from the State-administered Federal AmeriCorps program. The grant provides partial funding for 22 full-time urban forestry trainees and 1.5 additional staff positions. These positions will provide tree planting, tree care, volunteer support and community education services to the neighborhoods of San José. This grant program requires an annual Grantee match of approximately \$607,000 for such items as trees, stakes, stipends, trucks, insurance, computers and related expenses. This Matching Grant Agreement for \$120,000 is to provide a portion of the matching funds required for the second year of the grant.

2. Grantee's business and services model is a perfect fit for the three strategic goals of this federal program:

a. Grantee meets a critical need in the community by providing tree related services.

b. The City is strengthened through the Grantee's engagement of citizens in developing and maintaining the urban forest.

c. Grantee provides an opportunity for Americans to be involved in a lifetime of meaningful volunteer service.

B. SERVICES.

1. As part of this Agreement, Grantee shall provide the following services:

a. **Funding Outreach** - For Fiscal Year 2008-2009, Grantee shall secure funding from sources other than the City of San José to complete the \$607,000 local match required for the second year of the grant to secure the AmeriCorps grant for the second year.

b. **Special City Projects** - Grantee shall assist the City in development of a City-wide street tree inventory by assisting in a pilot inventory project identifying the number, location and width of vacant street tree planting sites within Zip Code 95122 with the goal of expanding the inventory project in succeeding years.

c. **Staff** - Grantee shall hire and train 22 AmeriCorps trainees that will assist in accomplishing the following tasks:

1. Develop community-based programs to enhance and protect the San José area's urban forest.
2. Develop related volunteer opportunities for residents of all ages throughout the City.
3. Respond to citizen requests for information and assistance.
4. Conduct educational outreach to both English and non-English speaking populations and distribute educational materials in various languages.
5. Assist with project implementation for state and federal grants.
6. Coordinate with City Arborist, City Parks Managers and other City staff, as appropriate, on projects concerning City trees and property and related matters.
7. Provide citizen volunteers with ongoing support and technical assistance.
8. Provide educational displays and information materials.

C. PERFORMANCE MEASURES.

1. The following performance categories will be used to measure the productivity and output of Grantee's Program:

- a. Grantee shall enroll at least twenty-two (22) AmeriCorps trainees in the program by November 1, 2008.
- b. Grantee shall graduate at least fifteen (15) AmeriCorps trainees by August 31, 2009.
- c. Grantee shall assist the City in development of a City-wide street tree inventory pilot project identifying the number, location, and width of vacant street tree planting sites within Zip Code 95122.
- d. Grantee shall develop Green San José federal grant training curriculum, handbooks and timelines.

EXHIBIT B

INSURANCE REQUIREMENTS

Grantee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to Grantee property that may arise from or in connection with the operation and use of City owned premises. The cost of such insurance shall be Grantee's responsibility.

Minimum Limits of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001); and
2. The coverage provided by Insurance Services Office form number CA 0001 covering Automobile Liability. Coverage shall be included for all owned. Non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance; and
4. Property insurance against all risks of loss to any tenant improvements or betterments, or Grantee owned property.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

Minimum Limit of Insurance

Grantee shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. \$100,000 Fire Legal Liability limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the California Labor and Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease; and

4. Property Insurance: Full replacement cost with no coinsurance penalty provision.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or Grantee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

- 1) The general liability policy is to contain, or be endorsed to contain, the following provisions.
 - a.. The City of San José, its officers, officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by, or on behalf of, Grantee, Grantee products or completed operations, premises owned, occupied or used by Grantee. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
 - b. Grantee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of Grantee's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
 - d.. Coverage shall state that Grantee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits or the insurer's liability.
 - e.. Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, agents and contractors.
- 2) Workers' Compensation and Employers' Liability
Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, agents and contractors.
- 3) All coverages
Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) day's prior written notice by certified mail, return

receipt requested, has been given to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

Acceptability of Insurers

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

Verification of Coverage

Grantee shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address, as may be directed in writing by Risk Management:

City of San José – Human Resources
Risk Management
200 E. Santa Clara Street – 2nd Floor Wing
San Jose, CA 95113-1905

Subcontractors

Grantee shall include all contractors and sub-contractors as insureds under its policies or shall obtain separate certificates and endorsements for each.

