

City of South Daytona

Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



MEMORANDUM

To: James L. Gillis Jr., City Manager
From: Becky Witte, Deputy City Clerk
Re: Consideration of approving the Restrictive Covenants and Grants in Aid Letter Contract for ECHO Grant Award 22-05 for planned improvements to Magnolia Park.
Date: August 3, 2022

On August 2, 2022, the Volusia County Council approved the City's ECHO Grand Award for \$243,750 for Magnolia Park Improvements.

The Parks and Recreation Director put an enormous amount of effort into the application knowing how important it was to revitalize this underutilized park. The proposed improvements include the complete replacement of all playground equipment and swings. It also includes the replacement of the entire boardwalk along the pond to maximize accessibility. Enhanced landscaping is scheduled to be installed along with a fence replacement and parking lot improvements. The pond will also be stocked to encourage fishing from the newly installed dock.

The Restrictive Covenants require public access for the project for twenty (20) years from the date of recording. The ECHO Grants in Aid Letter Contract specifies the project, eligible amount and details on reimbursement requests.

Staff recommends approval of the Restrictive Covenants and Contract with Volusia County as we feel this is a perfect opportunity to form a partnership with Volusia County on improving Magnolia Park for all of our residents.



Resource Stewardship Division

August 2, 2022

Amy Zengotita, Parks & Recreation Director
City of South Daytona
P.O. Box 214960
South Daytona, Florida 32121

**RE: ECHO Grant Award 22-05
City of South Daytona – Magnolia Park Renovation**

Dear Ms. Zengotita,

Congratulations! On August 2, 2022 the Volusia County Council approved the ECHO Advisory Committee recommendation of your ECHO Grants-in-Aid award in the amount of \$243,750. Attached are the documents you need to complete the award process. The following action steps are required to move toward receiving the Notice to Proceed:

1. Restrictive Covenants – Provide the legal description of the project property to the ECHO office for review and approval. Once approved, complete, duly sign, witness, notarize and record the restrictive covenant with the approved legal description of the project property as a part thereof, with the Volusia County Clerk of the Court and a copy of the filed document needs to be provided to ECHO staff.
2. One Original Letter Contract – Have the appropriate authority sign the document on the line marked “Agency (Grantee) Acknowledgement”. Sign the line marked by a red “X” and only that one place. This document will be processed by ECHO staff. It is the document that allows us to encumber funds specific to your project.

Return signed and recorded documents in one packet to ECHO staff no later than August 16, 2022. Please include your grant number (22-05) on all correspondence.

123 W. Indiana Avenue, Room 200
Tel: (386) 943-7081 Fax: (386) 626-6570

A Notice to Proceed must be issued prior to the start of your project. Your expeditious processing of the attached documents is critical to continuing the award process.

On behalf of the ECHO staff, I want to once again congratulate you on your grant award. We look forward to working with your organization to ensure the successful completion of this project to realize the goals of the ECHO Program. Please contact me at (386) 943-7081 or khively@volusia.org if you have any further questions.

Sincerely,



Kendra Hively, ECHO Manager
Resource Stewardship Division

Restrictive Covenants

THESE COVENANTS are entered into this _____ day of _____, 2022, by the City of South Daytona. *Hereinafter referred to as "the Owner"* and City of South Daytona, *hereinafter referred to as "the Grantee/Lessee"*, and shall be effective for a period of 20 years from the date of recordation by the Clerk of the Circuit Court of Volusia County, Florida.

WHEREAS, the Owner is the fee simple title holder of the Property located at 1985 Magnolia Avenue, South Daytona, in the County of Volusia, Florida, as described as Exhibit A (legal description), attached to and made a part hereof, and

WHEREAS, the Grantee/Lessee is to receive ECHO Grant Program funds administered by the County of Volusia, Florida, 123 W. Indiana Avenue, DeLand, Florida 32720, *hereinafter referred to as "the County"*, in the amount of \$243,750.00, to be used for the construction of the facility for public use specifically described in the ECHO Grant Agreement and its attached documents, situated on the property as described as Exhibit A, and

Now THEREFORE, as part of the consideration for the County grant, the Owner and the Grantee/Lessee hereby make and declare the following restrictive covenants which shall run with the title to said Property and be binding on the Owner and its successors in interest, if any, for the period stated in the preamble above:

1. The Owner and the Grantee/Lessee agree to maintain the property so that it continues to be used for as an ECHO facility as defined in the ECHO application definition and described in the grantee's application No. 22-05. This includes the requirement to maintain public access for the project for a period of twenty (20) years from the date of recording this restrictive covenant.
2. The Owner and the Grantee/Lessee agree that the County of Volusia, its agents and its designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether the conditions of the Grant Award Agreement and these covenants are being observed.
3. The Owner and the Grantee/Lessee agree that these restrictions shall encumber the property for a period of 20 years from the date of recordation, and that if the restrictions are violated within the 20 year period, the County of Volusia shall be entitled to liquidated damages pursuant to the following schedule:
 - a. If the violation occurs within the first half of the effective time period of these covenants, the County shall be entitled to return of the entire grant amount.
 - b. If the violation occurs after the first half of the effective time period, the County shall be entitled to the return of the entire grant amount, less the quotient of two (2) divided by the number of years in the time period times each year past the mid period of the effective time period times the grant amount. For instance, if the violation occurs after the thirteenth (13th) anniversary of the effective date of these covenants but prior to the fourteenth (14th) anniversary, the County shall be entitled to return of 50% of the original grant amount.
4. The Owner and Grantee/Lessee are liable to the County of Volusia for the amount of the grant if the Owner or Grantee/Lessee breach these Restrictive Covenants and/or the Grant Award Agreement dated August 2, 2022. To insure the ability to repay the grant, the Owner and

Grantee/Lessee have agreed that they will maintain unencumbered equitable value in the property of at least the amount, and for at least the period of time provided in paragraph three (3) above. The Owner and Grantee/Lessee will not secure with a mortgage or otherwise hypothecate that equitable value in the property.

5. The Owner agrees to file these covenants with the Clerk of the Circuit Court of Volusia County, Florida, and shall pay any and all expenses associated with their filings and recording.
6. The Owner and Grantee/Lessee agree that the County of Volusia shall incur no tax liability as a result of these restrictive covenants.

IN WITNESS WHEREOF, the Owner and Grant Recipient have read these Restrictive Covenants and have hereto affixed their signatures.

OWNER:

GRANTEE:

Sign

Sign

Witness: _____
Sign

Print

Witness: _____
Sign

Print

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2022, by _____, as _____ who is [_____] personally known to me, or [_____] who has produced a _____ driver's license as identification.

Print Name: _____
Notary Public, State of Florida
Commission No.: _____
My Commission Expires: _____

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2022, by _____, as _____ who is [_____] personally known to me, or [_____] who has produced a _____ driver's license as identification.

Print Name:_____

Notary Public, State of Florida

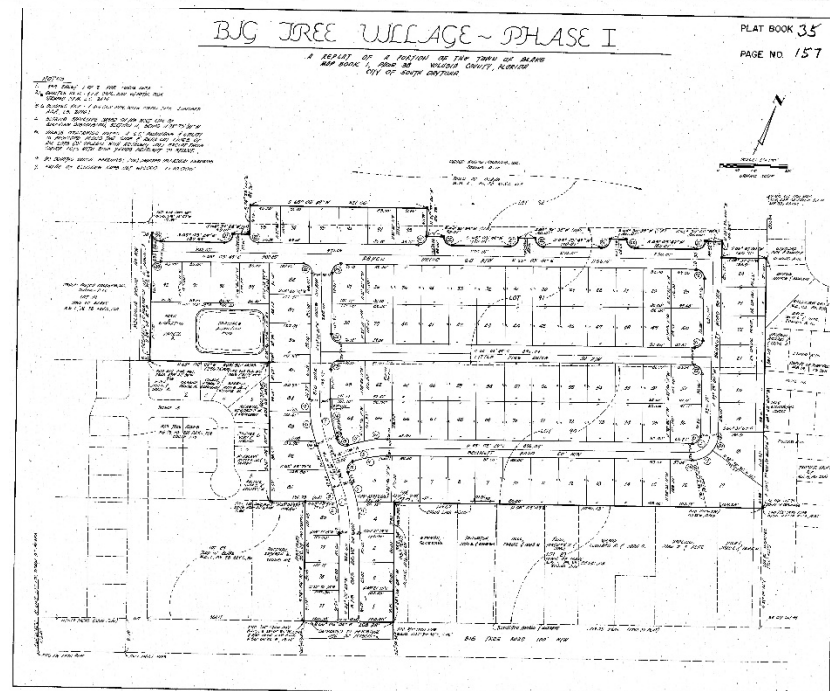
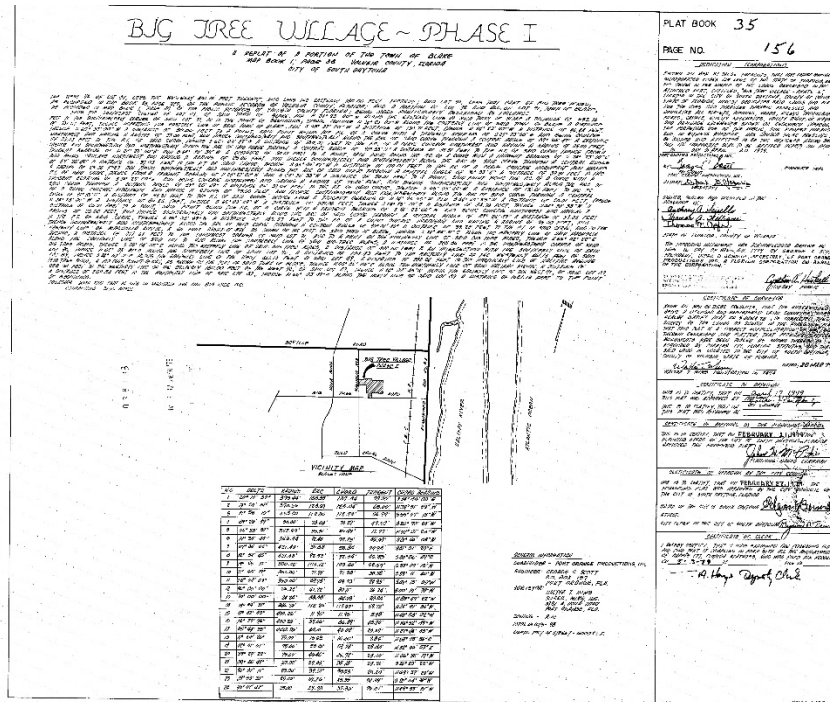
Commission No.:_____

My Commission Expires:_____

Exhibit A **Magnolia Park** **1987 Magnolia Avenue, South Daytona**

Legal Description: Parcel A, Big Tree Village Phase I per Map Book 35, Page 156 & 157

The property was dedicated to the City on the Big Tree Village - Phase I Plat dated April 16, 1979 recorded in Map Book 35, Page 156 & 157



FOR ACCOUNTING USE ONLY

VENDOR CODE: _____
 ACCOUNTING PERIOD: _____ BUDGET FY: _____
 SCH PAY DATE: _____ CHECK CATEGORY: _____
 OFFSET LIABILITY ACCT: _____ SINGLE CHECK: _____
 DOCUMENT TOTAL: _____

COUNTY OF VOLUSIA

RESOURCE STEWARDSHIP DIVISION
 ECHO GRANTS IN AID LETTER CONTRACT

Issue Date:

Issued By: Community Services Department
 Resource Stewardship Division
 ECHO Grants-In-Aid
 123 West Indiana Ave.
 Deland, FL 32720

Issued To Vendor #: 21091300020

Vendor Name: City of South Daytona

Address: 1672 S. Ridgewood Ave., South Daytona FL 32118

Phone Number: 386-322-3069

| REQUEST No. | FUND | AGENCY | ORG. | OBJECT | PROGRAM | TOTAL |
|-------------|------|--------|------|--------|---------|--------------|
| | 160 | 625 | 6022 | 8100 | ECHO 22 | \$243,750.00 |

Description: To provide grant awards to eligible applicants as described in Resolution 2020-79 for the purpose of acquiring, constructing or restoring environmental learning, cultural, historical/heritage and outdoor recreation facilities through a grant application process.

22-05: Please reference this number on all invoices for payment and correspondence.

Terms: Financial assistance for grant activity will be FY 21-22 (10/1/21 – 9/30/22), FY 22-23 (10/1/22 – 9/30/23) and FY23-24 (10/1/23 – 09/30/2024)

Funding: Payments will be made to the recipient for reimbursement of eligible expenditures approved by the ECHO program coordinator. Quarterly, the recipient must submit a Quarterly Report and a Reimbursement Request. The County may allow additional reimbursement requests but at a minimum the grantee shall provide one per quarter after the grant is awarded even if the reimbursement request is \$0. The County shall retain 10% of each reimbursement amount until the ECHO project is finished, all reports are complete, and the final permanent ECHO sign is installed.

Use of Funds: Funds must be used as proposed in the grant application submitted and included as part of the Grant Agreement approved by the County Council on August 2, 2022.

Reviewed By _____ Date _____

Department Head _____ Date _____

Purchasing Director _____ Date _____

X _____
 Agency Acknowledgement _____ Date _____