

**TERM CONTRACTS:**

- 18. Award IFB-3124-05/LJS – Term Contract for Tree Trimming and Stump Removal Services for Library and Leisure Services/Parks and Recreation Department, to SunState Trees & Property Maintenance, Inc, Casselberry (Term Contract).**

IFB-3124-05/LJS will provide for all labor, materials, equipment, fuel, coordination and incidentals necessary for tree trimming, stump removal and clean up, technical assistance and the ability to respond to emergencies to the park grounds when necessary due to dangerous situations and public safety and access to the facilities throughout the County for the Parks and Recreation Division.

The project was publicly advertised and the County received two (2) submittals in response to the solicitation. The Review Committee which consisted of Joe Gasparini, Parks and Recreation Division, Jeff Hayes, Parks and Recreation Division reviewed the responses and recommends award to the most responsible, responsive, lowest Bidder, SunState Trees and Property Maintenance, Inc., Casselberry. The evaluation was based on the proposed cost to the County and the ability/capability of the firm to provide required services.

The performance of services by the selected Contractor under this agreement shall be in the form of written Release Orders issued and executed by the County on an as-needed basis as long as the cumulative amount of the Release Orders does not exceed budgetary constraints.

The agreement shall take effect on the date of its execution by the County and shall run for an initial period of three (3) years with two (2) one (1) year renewal options. The estimated contract value for three years is \$195,000.00.

Library and Leisure Service Department/Parks and Recreation Division and Fiscal Services/Purchasing and Contracts Division recommend the Board to award the project and authorize the County Manager to execute the contract as approved and prepared by the County Attorney's Office and pursuant to the IFB documents.

**B.C.C. - SEMINOLE COUNTY, FL****BID TABULATION SHEET**

BID NUMBER: IFB-3124-05/LJS  
 BID TITLE: Term Contract for Tree Trimming and Stump Grinding  
 OPENING DATE: August 3, 2005 at 2:00 P.M.

ALL BIDS ACCEPTED BY SEMINOLE COUNTY ARE SUBJECT TO THE COUNTY'S TERMS AND CONDITIONS AND ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. BID DOCUMENTS FROM THE VENDORS LISTED HEREIN ARE THE ONLY BIDS RECEIVED IN A TIMELY MATTER AS OF THE ABOVE OPENING DATE AND TIME. ALL OTHER BID DOCUMENTS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE.

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<b>Response 1</b>	<b>Response 2</b>	<b>Response 3</b>
SunState Trees & Property Maintenance, Inc. 295 Lyman Road Casselberry, Florida 32077  (407) 331-8905 – Phone (800) 877-665-8733 – Toll Free (407) 993-8645 – Fax Randall A. Nellis	A Budget Tree Service, Inc. 710 E. State Road 434 Winter Springs, Florida 32708  (407) 327-2520 – Phone (877) 712-1985 – Toll Free (407) 327-2523 – Fax Darcy L. Meagher	The Davey Tree Expert Company 123 Atlantic Drive Suite 111 Maitland, Florida 32751
<b>See Attached Form</b>	<b>See Attached Form</b>	<b>NO BID</b>
Price schedule: yes	Price schedule: yes	
Conflict of Interest Statement:: yes	Conflict of Interest Statement:: yes	
Compliance: yes	Compliance: yes	
Bidder's Certification: yes	Bidder's Certification: yes	
Addendum 1 & 2: yes	Addendum 1 & 2: yes	

Tabulated by: Lisa J. Spillman (Posted 8/4/05)

Recommendation of Award: SunState Trees & Property Maintenance, Inc.

		<b>SunState Trees &amp; Property Maintenance, Inc</b>	<b>A Budget Tree Service, Inc</b>
<b>Tree Sizes (diameter) Measurement from 3' above ground</b>		<b>Price Per Tree</b>	
3" to 5.5"		<b>\$ 25.00</b>	<b>\$35.00</b>
6" to 11.5"		<b>\$ 65.00</b>	<b>\$50.00</b>
12" to 23.5"		<b>\$135.00</b>	<b>\$565.00</b>
24" to 47.5"		<b>\$825.00</b>	<b>\$1,600.00</b>
48" to 60"		<b>\$1,800.00</b>	<b>\$2,300.00</b>
<b>Stump Sizes (diameter) Measurement from 1' above ground</b>		<b>Price Per Stump</b>	
3" to 5.5"		<b>\$50.00</b>	<b>\$25.00</b>
6" to 11.5"		<b>\$50.00</b>	<b>\$55.00</b>
12" to 23.5"		<b>\$85.00</b>	<b>\$95.00</b>
24" to 47.5"		<b>\$90.00</b>	<b>\$250.00</b>
48" to 60"		<b>\$185.00</b>	<b>\$400.00</b>
<b>Emergency Response Flat Fee Cost</b>		<b>\$350.00</b>	<b>\$250.00 - \$500.00 "inclusive"</b>

DRAFT

TERM CONTRACT FOR TREE TRIMMING AND STUMP REMOVAL (IFB-3124-05/LJS)

THIS AGREEMENT is made and entered into this 21<sup>ST</sup> day of JULY, 2005, by and between SUNSTATE TREES & PROPERTY MAINT, INC., duly authorized to conduct business in the State of Florida, whose address is 295 LYMAURD, CASSELBERRY, FL, 32707, hereinafter called the "CONTRACTOR" and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter called the "COUNTY".

**W I T N E S S E T H:**

**WHEREAS**, the COUNTY desires to retain the services of a competent and qualified contractor to provide tree trimming and stump removal services for Seminole County Parks and Recreation Division for Seminole County; and

**WHEREAS**, the COUNTY has requested and received expressions of interest for the retention of services of contractors; and

**WHEREAS**, the CONTRACTOR is competent and qualified to provide tree trimming and stump removal services to the COUNTY and desires to provide services according to the terms and conditions stated herein,

**NOW, THEREFORE**, in consideration of the mutual understandings and covenants set forth herein, the COUNTY and the CONTRACTOR agree as follows:

**SECTION 1. SERVICES.** The COUNTY does hereby retain the CONTRACTOR to furnish services and materials as further described in the Scope of Services attached hereto as Exhibit "A" and made a part hereof. Required services and materials shall be specifically enumerated, described and depicted in the Purchase Orders authorizing performance of the specific task. This Agreement standing alone does not authorize the

performance of any work or require the COUNTY to place any orders for work.

**SECTION 2. TERM.** This Agreement shall take effect on the date of its execution by the COUNTY and shall run for a period of three (3) years and, at the sole option of COUNTY, may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Purchase Orders issued pursuant to this Agreement and prior to the expiration date. Obligations entered therein by both parties shall remain in effect until delivery and acceptance of the services and materials authorized by the Purchase Order. The first three (3) months of the initial terms shall be considered probationary; during that period the COUNTY may terminate this Agreement at any time, with or without cause, immediately upon written notice to the CONTRACTOR.

**SECTION 3. AUTHORIZATION FOR SERVICES.** Authorization for performance of services by the CONTRACTOR under this Agreement shall be in the form of written Purchase Orders issued and executed by the COUNTY and signed by the CONTRACTOR. A sample Purchase Order is attached hereto as Exhibit "B". Each Purchase Order shall describe the services and/or materials required and shall state the dates for commencement and completion of work and establish the amount and method of payment. The Purchase Orders will be issued under and shall incorporate the terms of this Agreement. The COUNTY makes no covenant or promise as to the number of available Purchase Orders, nor that, the CONTRACTOR will perform any Purchase Order for the COUNTY during the life of this Agreement. The COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by the COUNTY to be in the best interest of the COUNTY to do so. The COUNTY Representative will give the Primary CONTRACTOR first opportunity

to perform all available work. If the COUNTY Representative, at its sole discretion, determines the Primary CONTRACTOR cannot perform, the Secondary CONTRACTOR will be contacted to perform the required work.

**SECTION 4. TIME FOR COMPLETION.** The services to be rendered by the CONTRACTOR shall be commenced, as specified in such Purchase Orders as may be issued hereunder, and shall be completed within the time specified therein.

**SECTION 5. COMPENSATION.** The COUNTY agrees to compensate the CONTRACTOR for the professional services called for under this Agreement on a "Fixed Fee" basis. When a Purchase Order is issued for a "Fixed Fee Basis," then the applicable Purchase Order Fixed Fee amount shall include any and all reimbursable expenses. The total annual compensation paid to the CONTRACTOR pursuant to this Agreement, including reimbursable expenses, shall not exceed the total amount budgeted annually by the COUNTY for tree trimming and stump removal for the Parks and Recreation Division.

**SECTION 6. PAYMENT AND BILLING.**

(a) The CONTRACTOR shall perform all work and supply all materials required by the Purchase Order but, in no event, shall the CONTRACTOR be paid more than the negotiated Fixed Fee amount stated within each Purchase Order.

(b) For Purchase Orders issued on a "Fixed Fee Basis," the CONTRACTOR may invoice the amount due based on the percentage of total Purchase Order services actually performed and completed; but, in no event, shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.

(c) Payments shall be made by the COUNTY to the CONTRACTOR when requested as work progresses for services furnished, but not more than once monthly. Each Purchase Order shall be invoiced separately.

CONTRACTOR shall render to COUNTY, at the close of each calendar month, an itemized invoice properly dated, describing any services rendered, the cost of the services, the name and address of the CONTRACTOR, Purchase Order Number, Contract Number and all other information required by this Agreement.

The original invoice shall be sent to:

Director of County Finance  
Seminole County Board of County Commissioners  
Post Office Box 8080  
Sanford, Florida 32772

A duplicate copy of the invoice shall be sent to:

Parks and Recreation Division  
264 W. North Street  
Altamonte Springs, Florida 32714

(d) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from the CONTRACTOR.

**SECTION 7. GENERAL TERMS OF PAYMENT AND BILLING.**

(a) Upon satisfactory completion of work required hereunder and, upon acceptance of the work by the COUNTY, the CONTRACTOR may invoice the COUNTY for the full amount of compensation provided for under the terms of this Agreement herein less any amount already paid by the COUNTY. The COUNTY shall pay the CONTRACTOR within thirty (30) days of receipt of proper invoice.

(b) The COUNTY may perform or have performed an audit of the records of the CONTRACTOR after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to the CONTRACTOR and the COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to the CONTRACTOR may be determined subsequent to an audit as provided for in subsection (b) of this Section, and the total compensation so determined shall be used to calculate final payment to the CONTRACTOR.

Conduct of this audit shall not delay final payment as provided by subsection (a) of this Section.

(c) The CONTRACTOR agrees to maintain all books, documents, papers, accounting records and other evidences pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at the CONTRACTOR's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsection (b) of this Section.

(d) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (c) of this Section reveals any overpayment by the COUNTY under the terms of the Agreement, the CONTRACTOR shall refund such overpayment to the COUNTY within thirty (30) days of notice by the COUNTY.

**SECTION 8. RESPONSIBILITIES OF THE CONTRACTOR.** Neither the COUNTY'S review, approval or acceptance of, nor payment for, any of the services or materials required shall be construed to operate as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement and the CONTRACTOR shall be and always remain liable to the COUNTY in accordance with applicable law for any and all damages to the COUNTY caused by the CONTRACTOR's negligent or wrongful performance of any of the services furnished under this Agreement.

**SECTION 9. TERMINATION.**

(a) The COUNTY may, by written notice to the CONTRACTOR terminate this Agreement or any Purchase Order issued hereunder, in whole or in part, at any time, either for the COUNTY'S convenience or because of the failure of the CONTRACTOR to fulfill its Agreement obligations. Upon

receipt of such notice, the CONTRACTOR shall immediately discontinue all services affected unless the notice directs otherwise, and deliver to the COUNTY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by the CONTRACTOR in performing this Agreement, whether completed or in process.

(b) If the termination is for the convenience of the COUNTY, the CONTRACTOR shall be paid compensation for services performed to the date of termination.

(c) If the termination is due to the failure of the CONTRACTOR to fulfill its Agreement obligations, the COUNTY may take over the work and prosecute the same to completion by other Agreements or otherwise. In such case, the CONTRACTOR shall be liable to the COUNTY for all reasonable additional costs occasioned to the COUNTY thereby. The CONTRACTOR shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of the CONTRACTOR; provided, however, that the CONTRACTOR shall be responsible and liable for the actions of its subcontractors, agents, employees and persons and entities of a similar type or nature. Such causes may include acts of God or of the public enemy, acts of the COUNTY in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without any fault or negligence of the CONTRACTOR.

(d) If, after notice of termination for failure to fulfill its Agreement obligations, it is determined that the CONTRACTOR had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of the COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of

this Section.

(e) The rights and remedies of the COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.

**SECTION 10. AGREEMENT AND PURCHASE ORDER IN CONFLICT.** Whenever the terms of this Agreement conflict with any Purchase Order issued pursuant to it, the Agreement shall prevail.

**SECTION 11. EQUAL OPPORTUNITY EMPLOYMENT.** The CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**SECTION 12. NO CONTINGENT FEES.** The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, the COUNTY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee,

commission, percentage, gift, or consideration.

**SECTION 13. CONFLICT OF INTEREST.**

(a) The CONTRACTOR agrees that it will not contract for or accept employment for the performance of any work or service with any individual, business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the COUNTY.

(b) The CONTRACTOR agrees that it will neither take any action nor engage in any conduct that would cause any COUNTY employee to violate the provisions of Chapter 112, Florida Statutes, relating to ethics in government.

(c) In the event that CONTRACTOR causes or in any way promotes or encourages a COUNTY officer, employee, or agent to violate Chapter 112, Florida Statutes, the COUNTY shall have the right to terminate this Agreement.

**SECTION 14. ASSIGNMENT.** This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties hereto without prior written consent of the other party and in such cases only by a document of equal dignity herewith.

**SECTION 15. SUBCONTRACTORS.** In the event that the CONTRACTOR, during the course of the work under this Agreement, requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, the CONTRACTOR must first secure the prior express written approval of the COUNTY. If subcontractors or other professional associates are required in connection with the services covered by this Agreement, CONTRACTOR shall remain fully responsible for the services of subcontractors or other professional associates.

**SECTION 16. INDEMNIFICATION OF COUNTY.** The CONTRACTOR agrees to hold harmless, indemnify the COUNTY, its commissioners, officers, employees, and agents against any and all claims, losses, damages or lawsuits for damages, arising from, allegedly arising from or related to the provision of services hereunder by the CONTRACTOR.

**SECTION 17. INSURANCE.**

(a) GENERAL. The CONTRACTOR shall at the CONTRACTOR's own cost, procure the insurance required under this Section.

(1) Prior to commencement of work pursuant to this Agreement, the CONTRACTOR shall furnish the COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Workers' Compensation/Employer's Liability, Commercial General Liability, and Business Auto). The COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall provide that the COUNTY shall be given not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by the CONTRACTOR, the CONTRACTOR shall provide the COUNTY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.

(2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement. In lieu of the statement on the Certificate, the CONTRACTOR shall, at the option of the COUNTY submit a sworn, notarized statement from an authorized representative of the insurer that the Certificate is being provided in

accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement.

(3) In addition to providing the Certificate of Insurance, if required by the COUNTY, the CONTRACTOR shall, within thirty (30) days after receipt of the request, provide the COUNTY with a certified copy of each of the policies of insurance providing the coverage required by this Section.

(4) Neither approval by the COUNTY nor failure to disapprove the insurance furnished by a CONTRACTOR shall relieve the CONTRACTOR of the CONTRACTOR's full responsibility for performance of any obligation including CONTRACTOR indemnification of COUNTY under this Agreement.

(b) INSURANCE COMPANY REQUIREMENTS. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Companies issuing policies other than Workers' Compensation must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 440.57, Florida Statutes.

(2) In addition, such companies other than those authorized by Section 440.57, Florida Statutes, shall have and maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with Section 440.57, Florida Statutes, or 3) fail to maintain the

requisite Best's Rating and Financial Size Category, the CONTRACTOR shall, as soon as the CONTRACTOR has knowledge of any such circumstance, immediately notify the COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as the CONTRACTOR has replaced the unacceptable insurer with an insurer acceptable to the COUNTY the CONTRACTOR shall be deemed to be in default of this Agreement.

(c) SPECIFICATIONS. Without limiting any of the other obligations or liability of the CONTRACTOR, the CONTRACTOR shall, at the CONTRACTOR's sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by the CONTRACTOR and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) The CONTRACTOR's insurance shall cover the CONTRACTOR for liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. The CONTRACTOR will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both the CONTRACTOR and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United

States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act and any other applicable federal or state law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$100,000.00	(Each Accident)
\$100,000.00	(Disease-Policy Limit)
\$100,000.00	(Disease-Each Employee)

(2) Commercial General Liability.

(A) The CONTRACTOR'S insurance shall cover the CONTRACTOR for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment and the elimination of coverage for Fire Damage Legal Liability.

(B) The minimum limits to be maintained by the CONTRACTOR (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

	<u>LIMITS</u>
General Aggregate	\$Three (3) Times the Each Occurrence Limit
Personal & Advertising Injury Limit	\$300,000.00
Each Occurrence Limit	\$300,000.00

(3) Business Auto Policy.

(A) The CONTRACTOR'S insurance shall cover the CONTRACTOR for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

(B) The minimum limits to be maintained by the CONTRACTOR (inclusive of any amounts provided by an Umbrella or Excess policy) shall be per accident combined single limit for bodily injury liability and property damage liability. If the coverage is subject to an aggregate, the CONTRACTOR shall maintain separate aggregate limits of coverage applicable to claims arising out of or in connection with the work under this Agreement. The separate aggregate limits to be maintained by the CONTRACTOR shall be a minimum of three (3) times the per accident limit required and shall apply separately to each policy year or part thereof.

(C) The minimum amount of coverage under the Business Auto Policy shall be:

	<u>LIMITS</u>
Each Occurrence Bodily Injury and Property Damage Liability Combined	\$300,000.00

(d) COVERAGE. The insurance provided by CONTRACTOR pursuant to this Agreement shall apply on a primary basis and any other insurance or self-insurance maintained by the COUNTY or the COUNTY'S officials, officers, or employees shall be excess of and not contributing with the insurance provided by or on behalf of the CONTRACTOR.

(e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be

provided on an occurrence rather than a claims-made basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve the CONTRACTOR, its employees or agents of liability from any obligation under a Section or any other portions of this Agreement. It shall also be the responsibility of the CONTRACTOR to ensure that all of its subcontractors performing services under this Agreement are in compliance with the insurance requirements of this Agreement as defined above.

**SECTION 18. ALTERNATIVE DISPUTE RESOLUTION.**

(a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust COUNTY protest procedures prior to filing suit or otherwise pursuing legal remedies. COUNTY procedures for proper invoice and payment disputes are set forth in Section 55.1, "Prompt Payment Procedures," Seminole County Administrative Code.

(b) CONTRACTOR agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the COUNTY protest procedures set forth in subsection (a) above of which the CONTRACTOR had knowledge and failed to present during the COUNTY protest procedures.

(c) In the event that COUNTY protest procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

**SECTION 19. REPRESENTATIVES OF THE COUNTY AND THE CONTRACTOR.**

(a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. The COUNTY, upon request by the CONTRACTOR, shall designate in writing and shall advise the CONTRACTOR in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information and interpret and define the COUNTY'S policy and decisions pertinent to the work covered by this Agreement.

(b) The CONTRACTOR shall, at all times during the normal work week, designate or appoint one or more representatives of the CONTRACTOR who are authorized to act in behalf of and bind the CONTRACTOR regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep the COUNTY continually and effectively advised of such designation.

**SECTION 20. ALL PRIOR AGREEMENTS SUPERSEDED.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

**SECTION 21. MODIFICATIONS, AMENDMENTS OR ALTERATIONS.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

**SECTION 22. INDEPENDENT CONTRACTOR.** It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting the CONTRACTOR (including its officers, employees, and agents) the agent, representative, or employee of the COUNTY for any purpose, or in any manner, whatsoever. The CONTRACTOR is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

**SECTION 23. EMPLOYEE STATUS.** Persons employed by the CONTRACTOR in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the COUNTY'S officers and employees either by operation of law or by the COUNTY.

**SECTION 24. SERVICES NOT PROVIDED FOR.** No claim for services furnished by the CONTRACTOR not specifically provided for herein shall be honored by the COUNTY.

**SECTION 25. PUBLIC RECORDS LAW.** CONTRACTOR acknowledges COUNTY'S obligations under Article I, Section 24, Florida Constitution and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONTRACTOR acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

**SECTION 26. COMPLIANCE WITH LAWS AND REGULATIONS.** In providing all services pursuant to this Agreement, the CONTRACTOR shall abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services, including those now in

effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to the CONTRACTOR.

**SECTION 27. NOTICES.** Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

**FOR COUNTY:**

Parks and Recreation Division  
264 W. North Street  
Altamonte Springs, Florida 32714

**FOR CONTRACTOR:**

SUNSTATE TREES & PROPERTY MAINT. INC.  
295 LYMAN RD.  
CASSELBERRY, FL. 32707

**SECTION 28. RIGHTS AT LAW RETAINED.** The rights and remedies of the COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

**IN WITNESS WHEREOF,** the parties hereto have made and executed this Agreement on the date below written for execution by the COUNTY.

ATTEST:

*Dottie Della*  
Secretary

(CORPORATE SEAL)  
APPLIED FOR

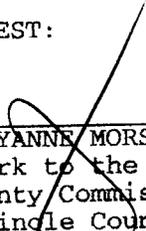
SunState Trees + Property Maint. Inc.

By: *[Signature]*  
President

Date: 7-21-2005

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

ATTEST:

  
\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_

Date: \_\_\_\_\_

For the use and reliance  
of Seminole County only.

Approved as to form and  
legal sufficiency.

\_\_\_\_\_  
County Attorney  
AC/lpk  
6/30/05  
ifb-~~3142~~ 3124

Attachments:

- Exhibit "A"- Scope of Services
- Exhibit "B"- Sample Purchase Order

## EXHIBIT A

### Section 1 – General Description of Services

The Contractor will be responsible for all labor, materials, equipment, coordination and incidentals necessary to provide tree trimming, tree removal, stump grinding and clean up as well as technical assistance and the ability to respond to emergencies throughout the County.

Trees will be sized as determined from measurements taken three (3) feet from normal ground level.

Stumps will be sized as determined from measurements taken one (1) foot from normal ground level. Note: Stumps grinding remnants may be spread on site. Stumps shall be grounded six (6) to eight (8) inches below surface of the ground.

The County will photo document the trees and/or stumps identified for removal. Once the size of the specimen is determined, the Contractor will remove and dispose of off site unless otherwise directed by County. Work to remove trees and stumps is to be completed within seven (7) days of notification.

Work may take place within any of the County Parks and any of the County's trail system. See site locations for the Parks and Trails at [www.seminolecountyfl.gov/parks](http://www.seminolecountyfl.gov/parks).

#### General Conditions:

1. Contractor will perform all work in such a manner as to provide a minimum of inconvenience to the residents of the area, and park or trail users.
2. Contractor will leave the work area and adjacent areas free of any accumulated rubbish and surplus rubbish and surplus materials, unless otherwise noted.
3. All wood and other debris not accepted as firewood for the campground at Lake Mills Park will be the property of the contractor and be disposed of in accordance to local laws and ordinances.
4. Primarily, most work under this contract will be under the supervision of the Manager of the Seminole County Parks and Recreation Division (or any member of his/her staff he/she so designates), phone 407-665-2001. It is possible that the contract may be used by other County Divisions or Departments. In that case, each County Division or Department shall provide a Project Manager or designee to direct, inspect and approve work for payment.
5. The Contractor will coordinate with the County's Project Manager or designee, who will perform inspections for the County and verify that the work has been completed in accordance with specifications, as scheduled and handle problems that may arise.
6. The County's Project Manager will be entitled at all times to be advised, at his/her request, as to the status and details of work being completed by the Contractor in the format he/she requires. The Contractor shall maintain coordination with the County's Project Manager at all times during performance of all work.

7. All work performed, unless authorized by the County's Project Manager, will take place between the hours of 7:00 AM and 5:00 PM, Monday through Friday. No work is to be performed on Saturdays, Sundays or County Holidays, unless previously authorized by the County's Project Manager.
8. The Maintenance of Traffic (M.O.T.) shall conform to F.D.O.T.'s most current editions of Roadway and Traffic Design Standards for Design, Construction, and Maintenance Systems and the Federal Highway Administration (F.H.W.A.) Manual on Uniform Traffic Control Devices (M.U.T.C.D.) for Streets and Highways.
9. The Contractor will provide competent, suitable and qualified personnel to perform the work as required by the specifications. The Contractor will, at all times, maintain good discipline and order at the work site.
10. The awarded Vendor shall provide all temporary barricading, signing, signals and competent flagmen and take all necessary precautions to protect buildings and personnel. All work shall be completed in every respect and accomplished in a professional manner and awarded Vendor shall provide for removal of all debris from County property.
11. Each job will be accomplished in the following manner:
  - A) The Contractor will receive notice of need from the County's Project Manager or designee.
  - B) The Contractor and the County's Project Manager or designee will conduct a joint inspection of the proposed work area and discuss the scope of the work to be accomplished.
12. Emergency response to downed trees on the Trail system or within a park is to be the same day when contacted before 12 noon.

It is hereby made a part of this IFB documents that before, during and after a public emergency, disaster, hurricane, flood, or other acts of God that Seminole County shall require a "first priority" basis for goods and services. It is vital and imperative that the majority of citizens are protected from any emergency situation which threatens public health and safety, as determined by the County. Contractor agrees to rent/sell/lease all goods and services to the County or other governmental entities as opposed to a private citizen, on a first priority basis. The County expects to compensate a fair and reasonable price for all services in the event of a disaster, emergency or hurricane. Contractor shall furnish a twenty-four (24) hour phone number in the event of such an emergency.

FLORIDA SALES: 69-11-033995-53C  
FEDERAL SALES/USE: 69-74-0013K

Board of County Commissioners  
Seminole County, Florida  
**ORDER**

**ORDER NUMBER:** EXHIBIT B

NOTE: ALL PACKING SLIPS, INVOICES & CORRESPONDENCE  
MUST REFERENCE THIS PURCHASE ORDER NUMBER.

Page 1

OP

FOR INQUIRIES REGARDING THIS ORDER, CONTACT:

FISCAL SERVICES DEPARTMENT - PURCHASING AND  
CONTRACTS DIVISION  
1101 E. 1st STREET - COUNTY SERVICES BLDG. - RM. #3208  
SANFORD FLORIDA 32771  
PHONE: (407) 665-7116 / FAX: (407) 665-7968



TOTAL AMOUNT

THIS ORDER IS SUBJECT TO THE TERMS & CONDITIONS ON THE REVERSE SIDE OF THIS ORDER.

SUBMIT ALL INVOICES IN DUPLICATE TO:

CLERK - B.C.C. FINANCE DIVISION  
POST OFFICE BOX 8080  
SANFORD, FL 32772-0869

Accts. Payable Inquiries - Phone (407) 665-7681

\_\_\_\_\_  
PURCHASING AND CONTRACTS DIVISION - AUTHORIZED SIGNATURE

for: SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS

COPY

<b>SUBMIT BID TO:</b> Seminole County 1101 E. 1st Street, Room 3208 Sanford, Florida 32771  <b>PURCHASING AND CONTRACTS DIVISION</b>	<b>INVITATION FOR  BID</b>  and Bidder Acknowledgment
Contact: Lisa J. Spillman Procurement Analyst 407-665-7118 - Phone 407-665-7956 - Fax L.Spillman@seminolecountyfl.gov	<b>IFB-3124-05/LJS</b> <b>Term Contract for Tree  Trimming, Tree Removal and  Stump Grinding/Removal for  Library and Leisure Services  Department/ Parks and  Recreation Division</b>
Bid Due Date: <b>July 20, 2005</b> Bid Due Time: <b>2:00 P.M.</b>	<b>Location of Public Opening:</b> County Services Building, Room #3208 1101 E. 1st Street, Sanford, Florida 32771
Bidder Name: <b>SUNSTATE TREES &amp; PROPERTY MAINT. INC.</b>	Federal Employer ID Number or SS Number: <b>59 3578530</b>
Mailing Address: <b>295 LYMAN ROAD</b>	If returning as a "No Submittal", state reason (if so, return only this page):
City, State, Zip: <b>CASSELBERRY, FL. 32707</b>	
Type of Entity: (Circle one) <input checked="" type="radio"/> Corporation <input type="radio"/> Partnership <input type="radio"/> Proprietorship <input type="radio"/> Joint Venture	 Authorized Signature (Manual)
Incorporated in the State of: <b>FLORIDA</b>	
Telephone Number: <b>407-331-8905</b>	Typed Name: <b>RANDAL A. NELLIS</b>
Toll Free Telephone Number: <b>(800)877-665-8733</b>	Title: <b>OWNER / PRESIDENT</b>
Fax Number: <b>407-339-8645</b>	Date: <b>JULY 21<sup>ST</sup> 2005</b>

**THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR BID**

The Applicant is expected to completely analyze the information contained in this Invitation for Bid as guidance for the preparation of the submittal. The Applicant's submittal shall be sufficiently specific, detailed, and complete to clearly and fully demonstrate the Applicant's understanding of the proposed work requirements.

Section 4 –  
Price Schedule

PROJECT: Term Contract for Tree Trimming, Tree Removal and Stump Grinding/Removal for Library and Leisure Services Department/ Parks and Recreation Division

COUNTY CONTRACT NO. IFB-3124-05/LJS

Name of Bidder: SUNSTATE TREES & PROPERTY MAINTENANCE INC.

Mailing Address: SUNSTATE TREES & PROPERTY MAINTENANCE INC.

Street Address: 295 LYMAN ROAD

City/State/Zip: CASSELBERRY, FL. 32707

Phone Number: (407) 331-8905

FAX Number: (407) 339-8645

Contact Person: RANDY NELLIS

(407) 331-8905 (24) hour phone number in the event of an emergency.

Pursuant to and in compliance with the Invitation for Bid, Instructions to Bidders, and the other documents relating thereto, the undersigned Bidder, having familiarized himself with the terms of the Contract Documents, local conditions affecting the performance of the Work, and the cost of the Work at the places where the Work is to be done, hereby proposes and agrees to perform, including all of its component parts and everything required to be performed, and to provide and furnish any and all of the labor, material, and tools, equipment, and all transportation services necessary to perform the Work and complete in a workmanlike manner, all of the Work required in connection with the required services, all in strict conformity Contract Documents, including Addenda Nos. 0 through 1, on file at the Purchasing Division for the amount hereinafter set forth.

The undersigned, as Bidder, declares that the only persons or parties interested in this bid as principals are those named herein; that this bid is made without collusion with any person, firm or corporation; and he proposes and agrees, if the bid is accepted, that he/she will execute an Agreement with the COUNTY in the form set forth in the Contract Documents; that he/she will furnish the Insurance Certificates.

**Bid Response  
IFB-3124-05/LJS**

**Tree Sizes (diameter)  
(Measurement from 3' above ground)**

**Price Per Tree**

3" to 5.5"	\$ <u>25<sup>00</sup></u>
6" to 11.5"	\$ <u>65<sup>00</sup></u>
12" to 23.5"	\$ <u>135<sup>00</sup></u>
24" to 47.5"	\$ <u>825<sup>00</sup></u>
48" to 60"	\$ <u>1800<sup>00</sup></u>

**Stump sizes (diameter)  
(Measurement from 1' above ground)**

**Price per stump**

3" to 5.5"	\$ <u>50<sup>00</sup></u>
6" to 11.5"	\$ <u>50<sup>00</sup></u>
12" to 23.5"	\$ <u>85<sup>00</sup></u>
24" to 47.5"	\$ <u>90<sup>00</sup></u>
48" to 60"	\$ <u>185<sup>00</sup></u>

Emergency Response Flat Fee Cost: \$ 350<sup>00</sup> /each. This is in addition to unit cost.

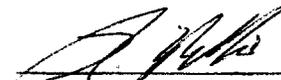
IN WITNESS WHEREOF, BIDDER has hereunto executed this FORM this 21<sup>ST</sup> day of JULY, 2005.

SUNSTATE TREES & PROPERTY MAINT. INC.

(Name of BIDDER)

RANDAL A. NELLIS

(Printed name of person signing FORM)



(Signature of person signing FORM)

OWNER / PRESIDENT

Title

**Attachment A  
Conflict of Interest Statement**

STATE OF FLORIDA )  
 ) ss  
COUNTY OF SEMINOLE )

Before me, the undersigned authority, personally appeared RANDAL A. NELLIS, who was duly sworn, deposes, and states:  
1. I am the OWNER of SUNSTATE TREES & PROPERTY MAINT, INC with a local office in CASSELBERRY, FL and principal office in CASSELBERRY, FL.

2. The above named entity is submitting an Expression of Interest for the Seminole County project described as **-IFB-3124-05/LJS - Term Contract for Tree Trimming, Tree Removal and Stump Grinding/Removal for Library and Leisure Services Department/ Parks and Recreation Division**

3. The Affiant has made diligent inquiry and provides the information contained in this Affidavit based upon his own knowledge.

4. The Affiant states that only one submittal for the above project is being submitted and that the above named entity has no financial interest in other entities submitting bids for the same project.

5. Neither the Affiant nor the above named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in connection with the entity's submittal for the above project. This statement restricts the discussion of pricing data until the completion of negotiations and execution of the Agreement for this project.

6. Neither the entity nor its affiliates, nor any one associated with them, is presently suspended or otherwise ineligible from participating in contract lettings by any local, state, or federal agency.

7. Neither the entity, nor its affiliates, nor any one associated with them have any potential conflict of interest due to any other clients, contracts, or property interests for this project.

8. I certify that no member of the entity's ownership, management, or staff has a vested interest in any aspect of or Department of Seminole County.

9. I certify that no member of the entity's ownership or management is presently applying for an employee position or actively seeking an elected position with Seminole County.

10. In the event that a conflict of interest is identified in the provision of services, I, on behalf of the above named entity, will immediately notify Seminole County in writing.

DATED this 21<sup>ST</sup> day of JULY, 2005.

Name of Affiant RANDAL A. NELLIS Typed  
Title OWNER/PRESIDENT

Sworn to and subscribed before me this 21 day of July, 2005.

Personally known  Deanna M. Murray

OR Produced identification Notary Public - State of Florida

(Type of identification) My commission expires February 12, 2008

Deanna M. Murray  
(Printed typed or stamped  
commissioned name of notary public)



**Attachment B**  
**Compliance with the Public Records Law**

Upon award recommendation or ten (10) days after opening, submittals become "public records" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. Bidders must invoke the exemptions to disclosure provided by law in the response to the solicitation, and must identify the data or other materials to be protected, and must state the reasons why such exclusion from public disclosure is necessary. The submission of a bid authorizes release of your firm's credit data to Seminole County.

If the company submits information exempt from public disclosure, the company must identify with specificity which pages/paragraphs of their bid/bid package are exempt from the Public Records Act, identifying the specific exemption section that applies to each. The protected information must be submitted to the County in a separate envelope marked accordingly.

By submitting a response to this solicitation, the company agrees to defend the County in the event we are forced to litigate the public records status of the company's documents.

Company Name: SULLSTATE TREES & PROPERTY MAINTENANCE INC.

Authorized representative (printed): RANDAL A. NELLIS

Authorized representative (signature): 

Date: 21<sup>ST</sup> OF JULY 2005

Project Number: IFB-3124-05/LJS

**THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR BID**

**Attachment C  
BIDDER'S CERTIFICATION**

I have carefully examined the Invitation for Bid, Instructions to Bidders, General and/or Special Conditions, Vendor's Notes, Specifications, proposed agreement and any other documents accompanying or made a part of this Bid Documents.

I hereby propose to furnish the goods or services specified in the Invitation for Bid at the prices, rates or discounts quoted in my bid. I agree that my submittal will remain firm for a period of up to one hundred twenty (120) days in order to allow the County adequate time to evaluate the bids.

I agree to abide by all conditions of this proposal and understand that a background investigation may be conducted by the Seminole County Sheriff's Department prior to award.

I certify that all information contained in this bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this bid on behalf of the vendor/contractor as its act and deed and that the vendor/contractor is ready, willing and able to perform if awarded the contract.

I further certify, under oath, that this bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a proposal for the same product or service; no officer, employee or agent of the Seminole County Government or of any other Bidder interested in said proposal; and that the undersigned executed this Bidder's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

Name of Business SUNSTATE TREES & PROPERTY MAINTENANCE INC.

By: [Signature]  
Signature

RANDAL A. NELLIS / OWNER - PRES.  
Name & Title, Typed or Printed

295 LYMAN ROAD  
Mailing Address

CASSELBERRY, FL. 32707  
City, State, Zip Code

(407) 331-8905  
Telephone Number

Sworn to and subscribed before me

This 21<sup>ST</sup> day of JULY 2005

[Signature]  
Signature of Notary

Notary Public, State of Florida

Personally Known

-OR-  
Produced Identification \_\_\_\_\_

Type: \_\_\_\_\_



Deanna M. Murray  
My Commission DD290450  
Expires February 12, 2008

Deanna M. Murray

# Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type  
See Specific instructions on page 2.

Name Sun State Trees + Property Maintenance Inc.  
 Business name, if different from above

Check appropriate box:  Individual/Sole proprietor  Corporation  Partnership  Other

Exempt from backup withholding

Address (number, street, and apt. or suite no.)  
295 Lyman Rd.

City, state, and ZIP code  
Casselberry FL 32707

Requester's name and address (optional)

List account number(s) here (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number  
 | | + | + | | |

or

Employer identification number  
5913157185310

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person [Signature] Date 7-21-05

## Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Foreign person.** If you are a foreign person, use the appropriate Form W-8 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement that specifies the following five items:

- The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
- The treaty article addressing the income.
- The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
- The type and amount of income that qualifies for the exemption from tax.
- Sufficient facts to justify the exemption from tax under the terms of the treaty article.