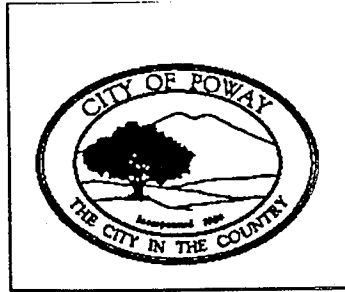


AGENDA REPORT SUMMARY



TO: Honorable Mayor and Members of the City Council

FROM: James L. Bowersox, City Manager *gjt*

INITIATED BY: James R. Williams, Director of Public Services *JRW*
Daniel W. Cannon, Parks and Landscape Manager *DWC*

26-13-00

DATE: March 8, 1994

SUBJECT: Approval of Cooperative Agreement 11-4228 Between the City of Poway and State of California Department of Transportation (CalTrans) to Plant Oak Trees Along State Route 67

ABSTRACT

CalTrans has requested the City of Poway to plant and maintain 500 oak trees along State Route 67 to mitigate the visual impacts associated with the highways construction for a lump sum of \$148,000.

ENVIRONMENTAL REVIEW

The proposed cooperative agreement is consistent with the mitigation measures associated with the Negative Declaration adopted for the SR67 Safety Improvement Project. Therefore, the previously issued Negative Declaration adequately addresses the potential environmental impacts.

FISCAL IMPACT

The planting and maintaining of trees is expected to cost an estimated \$80,000 over a five year period. The remaining funds are to be placed into a tree trust account for additional tree projects and replacement within the City's limits.

ADDITIONAL PUBLIC NOTIFICATION AND CORRESPONDENCE

A copy of this report has been mailed to CalTrans.

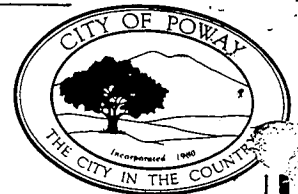
RECOMMENDATION

It is recommended that the City Council approve the attached Cooperative Agreement, and authorize the City Manager to execute said agreement on behalf of the City of Poway. It is further recommended that the funds remaining from the project be placed into a "tree trust account" for the City of Poway, and that the City Council adopt the attached resolution approving the agreement.

CTION

AGENDA REPORT

CITY OF POWAY



This report is included on the Consent Calendar. There will be no separate discussion of the report prior to approval by the City Council unless members of the Council, staff or public request it to be removed from the Consent Calendar and discussed separately. If you wish to have this report pulled for discussion, please fill out a slip indicating the report number and give it to the City Clerk prior to the beginning of the City Council meeting.

TO: Honorable Mayor and Members of the City Council

FROM: James L. Bowersox, City Manager *gjt*

INITIATED BY: James R. Williams, Director of Public Services *rw*
Daniel W. Cannon, Parks and Landscape Manager *dc*

DATE: March 8, 1994

SUBJECT: Approval of Cooperative Agreement 11-4228 Between
the City of Poway and State of California
Department of Transportation (CalTrans) to Plant
Oak Trees Along State Route 67

BACKGROUND

In 1986, the City entered into an agreement with CalTrans in which CalTrans would mitigate the loss of oak trees along State Route 67 during construction of the roadway south of Poway's eastern boundary (see Attachment 1). Unknown to the City, the project was scheduled in two phases with the planting of oak trees being scheduled for the second phase. To date, the second phase has not been placed on the CalTrans calendar and is not expected to be completed for another ten years. Due to these delays, staff negotiated with CalTrans to provide funding now for the planting of oak trees to mitigate the visual impacts of the new highway project (see Attachment 2). When the second phase of the highway is constructed, additional oak trees would be planted to mitigate the biological loss of the trees.

Since CalTrans does not have the resources to plant and maintain an oak grove of the quality required by the City of Poway, they have requested that the City of Poway assist them in the planting, irrigation, and maintenance of the trees. The cooperative agreement stipulates that the City will receive a lump sum of \$148,000 prior to the City starting the project.

ACTION:

The environmental assessment document requires that 600 oak trees be planted to mitigate both the visual and biological impacts to the area.

FINDINGS

The CalTrans environmental experts and landscape employees have determined that of the original 600 trees required, only 370 trees are needed to meet the intent of the environmental assessment document to mitigate visual impacts. In order to achieve a five-year survival of the minimum of 370 oak trees, staff proposes to plant and maintain approximately 500 oak trees. The trees would be planted on the outside of the zone of influence of the second phase of highway construction.

Staff also proposes to hire three California Conservation Corps interns during fiscal year 1994/95 to install the irrigation and plant the trees. The interns would be funded through this account. During hot weather, water would be supplied weekly by a water truck.

It is anticipated that the funds remaining from the project would be \$68,000. This balance would be placed into a tree trust fund for tree replacement, Earth Day tree projects, and City tree projects. Approval for these future projects and associated expenses would be required of City Council.

The attached cooperative agreement has been reviewed and approved by the City Attorney. CalTrans has requested that an approved, certified resolution be submitted with the agreement to their office.

ENVIRONMENTAL REVIEW

The proposed cooperative agreement is consistent with the mitigation measures associated with the Negative Declaration adopted for the SR67 Safety Improvement Project. Therefore, the previously issued Negative Declaration adequately addresses the potential environmental impacts.

FISCAL IMPACT

The planting and maintaining of trees is expected to cost an estimated \$80,000 over a five year period. The remaining funds are to be placed into a tree trust account for future tree projects and tree replacements within the City's limits.

ADDITIONAL PUBLIC NOTIFICATION AND CORRESPONDENCE

A copy of this report has been mailed to CalTrans.

RECOMMENDATION

It is recommended that the City Council approve the attached Cooperative Agreement, and authorize the City Manager to execute said agreement on behalf of the City of Poway. It is further recommended that the funds remaining from the project be placed into a "tree trust account" for the City of Poway, and that the City Council adopt the attached resolution approving the agreement.

Attachments:

1. January 28, 1986, Letter to Chief Deputy District Director, California Department of Transportation: Environmental Assessment and January 27, 1986 Letter from CalTrans
 2. September 16, 1993 Letter to the District Director, California Department of Transportation
 3. Project Location
 4. Resolution Approving Cooperative Agreement No. 11-4228 Between the City of Poway and the State of California Department of Transportation
- Exhibit A. Cooperative Agreement No. 11-4228 Between the City of Poway and the State of California Department of Transportation

FYI

6-13-00

ORDINANCE NO. 521

AN ORDINANCE OF THE CITY OF POWAY, CALIFORNIA
REPEALING AND REPLACING CHAPTER 12.32 OF THE POWAY MUNICIPAL CODE
RELATING TO TREES, AND ADOPTING GENERALLY ACCEPTED
URBAN FORESTRY PRACTICES

WHEREAS, the City Council finds it necessary to repeal Chapter 12.32 of the Poway Municipal Code in response to the establishment of Urban Forestry standards by the California Department of Forestry and Fire Protection; and

WHEREAS, on March 21, 2000, a duly advertised public hearing was conducted in accordance with Section 65853, et seq., of the California Government Code to consider the proposed amendments and to provide interested parties the opportunity to address such.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POWAY DOES ORDAIN AS FOLLOWS:

SECTION 1.

The City Council finds that the proposed amendments to Chapter 12.32 of the Poway Municipal Code are categorically exempt under Section 15308 of the California Environmental Quality Act (CEQA).

- A. Sections 12.32.010 -- 12.32.110 of Chapter 12.32 of the Poway Municipal Code are hereby repealed.
- B. Sections 12.32.010 -- 12.32.220 of Chapter 12.32 of the Poway Municipal Code are hereby adopted as follows:

I. GENERAL PROVISIONS AND DEFINITIONS

12.32.010 Title.

This Chapter shall be known as the "City of Poway Urban Forestry Ordinance."

12.32.020 Purpose and Intent.

This ordinance shall set forth all tree related policies, regulations, and generally accepted standards necessary for planting, trimming, and removing trees on public property and public rights-of-way. Additionally, this ordinance sets forth policies relating to trees native to Poway and trees growing on industrial and commercial property. The provisions of the ordinance are enacted to:

- A. Ensure that the City of Poway will continue to realize the benefits provided by generally accepted practices of urban forestry.

Ordinance No. 521

Page 2

- B. Clarify property owners' basic responsibilities to ensure that trees on public rights-of-way are properly maintained and that trees native to the Poway area are not arbitrarily removed.
- C. Identify the Department of Public Services as the City Department responsible for the care of public trees throughout Poway; identify the Director of Public Services as the responsible City administrator for encroachment permits and public tree removal permits; identify the Development Services Department as the City Department responsible for private tree removal permit administration; and identify the Director of Development Services responsible for code enforcement pertaining to private trees.
- D. Maintain the practice of protecting native trees and heritage trees, by requiring property owners to obtain the appropriate City permit from the Department of Public Services or Department of Development Services prior to any removal of said types of trees.
- E. Maintain the maximum amount practical of tree cover on public parks and open space lands within the City of Poway.
- F. Maintain the City of Poway's commitment to generally accepted International Society of Arboriculture practices and standards.
- G. Maintain appropriate diversity of tree species and age classes to provide the community with a stable and sustainable urban forest environment.
- H. Establish a Poway Tree Committee to hear appeals, make recommendations regarding tree maintenance and landscaping decisions, promote generally accepted International Society of Arboriculture practices and standards within the Poway community, and establish and implement procedures for identifying and designating heritage trees in Poway.
- I. Maintain the practice of managing trees on public rights-of-way in a manner that does not damage, obstruct, or interfere with public improvements.
- J. Manage the planting of trees on public rights-of-way on residentially classified streets.
- K. Maintain the practice of requiring tree removal permits for the removal of trees on public rights-of-way.

12.32.030 Findings.

Information and reports received by the Poway City Council indicate that an urban forestry ordinance acts as a guideline and standard to ensure City staff and City residents implement generally accepted International Society of Arboriculture practices and standards. These practices will sustain, preserve, and enhance the aesthetic qualities

Ordinance No. 521

Page 3

found within the Poway community. Moreover, it has been concluded that healthy and growing trees provide shelter and sustenance for indigenous wildlife. Research has shown that air pollution and its unhealthful effects upon residents and fauna are mitigated when there are abundant urban trees. The City Council finds that the preservation of native trees is especially important in the practice of urban forestry. Additionally, the City Council finds that trees having historic or cultural significance in Poway shall be protected.

12.32.040 Definitions.

Words and phrases in the Chapter shall have the common and usual meaning except as they may be defined below or elsewhere in the Municipal Code.

"Heritage Tree" shall mean any mature tree or mature stand of trees designated by the City Council as having historic or cultural significance.

"Native tree" shall mean any tree of the following species: Coast Live Oak [*Quercus agrifolia*], Canyon Live Oak [*Quercus chrysolepis*], Englemann Oak [*Quercus engelmannii*], and California Sycamore [*Platanus racemosa*].

"Private trees" shall mean both trees whose trunks are located upon privately owned property and trees planted by property owners on public rights-of-way.

"Public trees" shall mean both trees growing on publicly owned property and trees planted by the City growing on public rights-of-way.

"Street classification" shall mean the name attributed with a set of street and road characteristics listed in the Roadways Element of the "Poway General Plan, 1991."

"Shrubs" shall mean a bush or a plant more than twelve (12) inches but not more than six (6) feet tall.

"Topping" shall mean the severe cutting back of limbs to stubs larger than three inches in diameter, within the tree's crown, to such a degree as to remove the tree's natural canopy and/or severely disfigure the tree's appearance.

"Tree" or "Trees" shall mean any individual or group of self-supporting woody perennial plant or plants growing with a single or multi-stemmed trunk supporting a crown of branches.

"Tree Committee" shall mean a body consisting of three (3) at-large members appointed by the City Council and two (2) City staff members charged with the duties identified in Section 12.32.190.

"Trees growing on public property" shall mean trees whose trunks are located in whole or in part on property owned by the City or any other public agency.

Ordinance No. 521

Page 4

"Trees growing on public rights-of-way" shall mean trees whose trunks are located in whole or in part on property in which the City owns an interest for purposes of vehicular, pedestrian, equestrian, or City utility use.

ii. PLANTING, TRIMMING, OR REMOVAL OF TREES ON PUBLIC PROPERTY OR ON PUBLIC RIGHTS-OF-WAY

12.32.050 Destruction of public trees prohibited.

No person shall break, deface, destroy, or burn public trees.

12.32.060 Interference prohibited.

No person, firm, or corporation shall interfere with the Director of Public Services or persons acting under his/her authority while engaged in trimming, planting, mulching, pruning, or removing a public tree or any tree growing on public right-of-way within the City of Poway.

12.32.070 Topping of public trees is prohibited.

The topping of public trees is prohibited, unless the failure to top a tree poses a threat to public safety.

12.32.080 Annual spring pruning of public trees is prohibited.

No person shall annually prune public trees from March 15 until June 15 of any given year to protect bird species during the bird mating season.

12.32.090 Tree planting standards.

All trees planted on public property and on public rights-of-way shall be planted in accordance with the tree planting standards defined in the adopted "City of Poway Guidelines to Landscape Requirements." The tree must be planted at a location approved by the Director of Public Services, or his/her designee.

12.32.100 Tree planting encroachment permit.

The Director of Public Services, in cooperation with the Director of Development Services, shall administer the City of Poway's encroachment permits for trees. A property owner must obtain an encroachment permit to plant a tree on a public right-of-way or City easement. The Director of Development Services is responsible for encroachment permit record keeping.

Ordinance No. 521

Page 5

The Director of Development Services is responsible for encroachment permit record keeping.

12.32.110 Tree removal permit.

The Director of Public Services, in cooperation with the Director of Development Services, shall administer the City's tree removal permit program for trees growing on public property and trees growing on public rights-of-way.

No person, including the City, shall remove a public tree or a tree growing on public right-of-way without first obtaining a tree removal permit issued by the Director of Public Services or his/her designee. The City shall notify the adjoining property owner and occupant 10 days prior to the removal of a tree within the public right-of-way on classified residential streets. The tree removal permit authorizing the removal of a specific tree on public property or on public right-of-way shall be subject to terms and conditions deemed appropriate by the Director of Public Services or his/her designee. The Director of Public Services shall review each tree removal permit application and make a recommendation as to whether the permit shall be issued or denied. The Director of Development Services is responsible for tree removal permit record keeping.

The decision to issue or deny the permit and any terms and conditions of the permit shall be based on the following criteria:

- A. The condition of the tree with respect to disease, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures and interference with utility services, age or remaining life span, and whether or not the tree acts as host for a plant which is parasitic to other species of trees which are in danger of being infested or exterminated by the parasite;
- B. The necessity of the requested action to construct improvements, or allow economic or other enjoyment of the property;
- C. The topography of the land and the effect of the requested action on erosion, soil retention, water retention, and diversion or increased flow of surface water;
- D. The number, species, size, and location of existing trees in the area and the effect of the requested action in terms of providing shade, protection from wind, air pollution reduction, historic or cultural value, and scenic beauty upon the health, safety, aesthetics, and general welfare of the City as a whole;
- E. Generally accepted International Society of Arboriculture practices addressing topics such as, but not limited to, the number of healthy trees a given parcel of land will support;

Ordinance No. 521
Page 6

12.32.120 Appeal of permit decision.

Any action by the Director of Public Services may be appealed to the Poway Tree Committee. To be effective, an appeal shall be filed within thirty (30) working days after the decision of the Director. The appeal shall be in writing and filed with the Public Services Department. The appeal must clearly specify the reason(s) for which the appeal is requested. The Poway Tree Committee shall have thirty (30) working days to render a decision.

12.32.130 Replacement of trees.

Any person removing a tree from public property or public right-of-way pursuant to a tree removal permit issued by the Director of Public Services or his/her designee may be eligible for reimbursement of a portion of the cost of a replacement tree through the Poway Tree Trust Fund. Replacement trees shall be one of the species on the approved street trees or slope plant materials list contained within the adopted "City of Poway Guidelines for Landscape Requirements." A property owner must obtain an encroachment permit to plant a replacement tree on public right-of-way.

Any person removing a native tree from public property or on public right-of-way pursuant to a tree removal permit issued by the Director of Public Services or his/her designee shall replace such tree on a one-for-one basis with a minimum size 24-inch box specimen tree of the same species as the tree removed. The replacement tree shall be planted at a location approved by the Director of Public Services. Where the native tree to be removed exceeds the size of a seventy-two-inch-box specimen (approximately eight inches in diameter), two forty-eight-inch-box specimen trees shall be used as replacements. These requirements may be waived or modified by the Director of Public Services, if determined that the requirements impose an unreasonable hardship. A portion of the cost of the replacement trees may be reimbursed through the Poway Tree Trust Fund.

12.32.140 Property owner's tree care responsibilities for trees on public rights-of-way.

Property owners having trees or shrubs growing on public rights-of-way shall maintain these trees and shrubs to a reasonable standard of care. Reasonable care ensures that trees and shrubs growing on public rights-of-way do not block pedestrian visibility; do not obstruct street clearance requirements; do not obstruct sidewalk clearance requirements; do not obstruct traffic signals or signs; do not grow into overhead utility lines; and do not allow tree root structures to undermine sidewalks, curbs, gutters, adjacent roadways, and underground utilities such as water and sewer lines.

When necessary, residents shall be notified to exercise reasonable tree and landscaping care on public rights-of-way by the Director of Public Services or his/her designee; the affected homeowner shall comply with the order within thirty (30) calendar days of notice.

Ordinance No. 521

Page 7

The cost of this required tree trimming shall be that of the homeowner. If the homeowner does not comply, the City will follow the abatement procedures as defined in Chapter 8.72, "Nuisance Abatement Procedure."

III REMOVAL OF TREES ON PRIVATE PROPERTY

12.32.150 Private tree removal permit.

The Director of Development Services shall maintain the City of Poway's private tree removal permit records and issue such permits.

A property owner shall first obtain a private tree removal permit authorizing the removal of a private tree that is a native tree or a heritage tree subject to terms and conditions deemed appropriate by the Director of Development Services or his/her designee. On commercial and industrial property, a permit shall be required for the removal of any living tree greater than three inches in diameter.

Applicants shall be expected to replace these types of trees in accordance with Section 12.32.170 - "Replacement of Trees." The Director of Development Services, or his/her designee shall review each private tree removal permit application and make a recommendation as to whether the permit shall be issued or denied. The decision to issue or deny the permit and any terms and conditions of the permit shall be based on the following criteria:

- A. The condition of the tree with respect to disease, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures and interference with utility services, age or remaining life span, and whether or not the tree acts as host for a plant which is parasitic to other species of trees which are in danger of being infested or exterminated by the parasite;
- B. The necessity of the requested action to construct improvements, or allow economic or other enjoyment of the property;
- C. The topography of the land and the effect of the requested action on erosion, soil retention, water retention, and diversion or increased flow of surface water;
- D. The number, species, size, and location of existing trees in the area and the effect of the requested action in terms of providing shade, protection from wind, air pollution reduction, historic or cultural value, and scenic beauty upon the health, safety, aesthetics, and general welfare of the City as a whole;
- E. Generally accepted International Society of Arboriculture practices addressing topics such as, but not limited to, the number of healthy trees a given parcel of land will support;

Ordinance No. 521

Page 8

F. Native trees shall be retained unless their removal is absolutely necessary.

12.32.160 Appeal of permit decision.

Any action by the Director of Development Services may be appealed to the Poway Tree Committee. To be effective, an appeal must be filed within thirty (30) working days after the decision of the Director. The appeal must be in writing and be filed with the Public Service Department. The appeal shall clearly specify the reason(s) for which the appeal is requested. The Poway Committee shall have thirty (30) working days to render a decision.

12.32.170 Replacement of trees.

Any person removing a live tree pursuant to a permit issued by the Director of Development Services or his/her designee shall replace such tree on a one-for-one basis with a tree of the same size of a species and in a location approved by the Director of Development Services or his/her designee. Where the tree to be removed exceeds the size of a seventy-two-inch-box specimen (approximately eight inches in diameter), two forty-eight-inch box specimen trees shall be used as replacements. These requirements may be waived or modified by the Director of Development Services if determined that the requirements impose an unreasonable hardship.

12.32.180 Commercial, industrial, and residential development projects.

For commercial, industrial, or residential projects requiring City approval, existing on-site trees shall be retained wherever possible and shall be trimmed and maintained in accordance with the adopted "City of Poway Guidelines to Landscape Requirements." A master plan of the existing on-site trees shall be provided to the Development Services Department prior to the issuance of building and grading permits, to determine which trees shall be retained. Any dead, decaying, or potentially dangerous trees shall be approved for removal at the discretion of the Director of Development Services during review of the master plan of existing on-site trees. All trees that are removed shall be replaced on a one-for-one basis as described in Section 12.32.170, and replacements should be one of the species contained in the adopted "City of Poway Guidelines to Landscape Requirements."

IV. POWAY TREE COMMITTEE

12.32.190 Poway Tree Committee.

The Poway Tree Committee shall consist of three (3) members appointed by the City Council and two (2) City staff members. The Poway Tree Committee shall consider tree removal and encroachment permit appeals. Additionally, the Poway Tree Committee shall review, study, and make recommendations to the Directors of Public Services and Development Services on issues concerning:

Ordinance No. 521
Page 9

- A. Tree maintenance and landscaping policies and work plans impacting public property and trees on public rights-of-way.
- B. The promotion of generally accepted International Society of Arboriculture practices within the Poway community, including the discouragement of topping of trees on private property.
- C. The maintenance of the tree inventory.
- D. The identification of heritage trees in Poway for recommendation to the City Council.

12.32.200 The Poway Tree Trust Fund.

The Poway Tree Committee shall be responsible for administering the Poway Tree Trust Fund and reporting annually to the Director of Public Services on expenditures. The City Council shall receive a copy of the annual report. To encourage the planting of trees in Poway in public open space areas and on public property, while discouraging the planting of trees on public rights-of-way, program funds shall provide for the planting of trees in Poway and the cost of a replacement tree for trees removed from public rights-of-way. Interest earned from the Poway Tree Trust Fund can be used for the costs of providing an annual Arbor Day celebration event. The Poway Tree Trust Fund's annual contribution to an Arbor Day event cannot exceed the amount of annual interest earned from the Poway Tree Trust Fund.

V. SEVERABILITY, VIOLATIONS, AND PENALTIES

12.32.210 Severability.

Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

12.32.220 Violation-Penalty.


Any person, partnership, organization, firm, or corporation, whether as principal, agent, employee, or otherwise, violating any provisions of this title or violating or failing to comply with any order to regulation made under this title, shall be guilty of a misdemeanor or an infraction and, upon conviction thereof, shall be punishable as provided by Chapter 1.08.

Ordinance No. 521
Page 10


EFFECTIVE DATE: This ordinance shall take effect and be in force thirty (30) days after the date of this passage; and the City Clerk of the City of Poway is hereby authorized to use summary publication procedures pursuant to Government Code Section 36933 utilizing the Poway News Chieftain, a newspaper of general circulation published in the City of Poway.

Introduced and first read at a regular meeting of the City Council of the City of Poway held the 21st day of March 2000, and thereafter PASSED AND ADOPTED at a regular meeting of said City Council held the 4th day of April 2000, by the following roll call vote:

AYES: EMERY, GOLDBY, HIGGINSON, REXFORD, CAFAGNA
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE


Michael P. Cafagna, Mayor

ATTEST:


LoriAnne Peoples, City Clerk

L 6-13-00

To: Dan

Banner2000

General Ledger Trial Balance Form (FGITBAL 3 1)

Client: C FUND: 254 Tree Trust Fund
 Fiscal Year: 00 ACCOUNT TYPE:
 ACCOUNT ID:

Acct	Description	Beginning Balance	DC *	Current Balance	DC *
8001U	Cash- General- Union Bank	84046.33	D	85983.44	D
8204	GASB #31 Market Value Adjustment	499.74	C *	499.74	C *
9110	Revenue Control	0.00	D	2937.11	C *
9120	Estimated Revenues	0.00	D	4490.00	D
9810	Budget changes to Fund Balance	0.00	D	4490.00	C *
8912	Fund Balance-Unappropriated	84046.33	C	84046.33	C
Total:		0.00		0.00	

* - denotes amount is opposite of Normal Balance

0 1
0 2
0 1
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0 0
0 1
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Banner2000



Organization Budget Status Form (FGIBDST 11.0.2)

Unit	C	Order		
Fiscal Year	00	Fund	254	Tree Trust Fund
Index		Program		
<input type="checkbox"/> Query Specific Account		Account		
<input checked="" type="checkbox"/> Include Revenue Accounts		Cost Type		
Commit Ind:	Both	Activity		
		Location		

Acct	Type	Title	Adj Budget	YTD Activity	Commitments	Avail Bal
411						
Net Total:			4490.00	2937.11		

