



## **AGENDA**

**Gainesville Mayor/Council Meeting**  
**Tuesday, February 20, 2018, 5:30 PM**  
**Public Safety Complex (Gainesville Justice Center)**  
**Municipal Court Room, 701 Queen City Parkway**  
**Mayor or Mayor Pro Tem Presides**

### **INVOCATION:**

### **PLEDGE OF ALLEGIANCE:**

### **PRESENTATION(S):**

- A. State of the City Address 2018

### **COUNCIL ANNOUNCEMENTS:**

### **PUBLIC COMMENTS: (20 minutes maximum)**

### **CONSENT AGENDA:**

#### **Minutes**

- A. February 1, 2018 Work Session
- B. February 6, 2018 Mayor/Council Meeting

#### **Resolutions**

- A. PR-2018-05 Syfan Logistics, Inc. Donation

### **GENERAL LEGISLATION:**

#### **A. Second Reading: Home Rule Ordinance 2018-01**

##### **Discontinue Second Readings and Clarify Voting Powers of the Mayor**

AN ORDINANCE TO AMEND SUBSECTION B OF SECTION 2.23 ENTITLED "ORDINANCE FORM; PROCEDURES" OF THE CHARTER OF THE CITY OF GAINESVILLE, GEORGIA AND SUBSECTION 1 OF SECTION 2.29 ENTITLED "POWERS AND DUTIES OF MAYOR" OF THE CHARTER OF THE CITY OF GAINESVILLE, GEORGIA BY ELIMINATING SAID SUBSECTIONS IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING PROVISIONS OF THE CHARTER; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

### **RESOLUTIONS:**

- A. BR-2018-13 Rules and Procedures for Adopting Ordinances

### **ANNEXATION/ZONING:**

#### **A. Second Reading: Ordinance No. 2018-02**

##### **Annex 5.048± acres at 0, 2608 and 2611 Ramsey Road**

AN ORDINANCE ANNEXING A 5.048± ACRES TRACT LOCATED ON THE NORTH SIDE OF RAMSEY ROAD AT ITS TERMINUS (A/K/A 0, 2608 AND 2611 RAMSEY ROAD); ADJACENT TO BUT NOT NOW WITHIN THE CORPORATE LIMITS OF THE CITY OF GAINESVILLE, GEORGIA; REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**B. Second Reading: Ordinance No. 2018-03**

**Zone 5.048± acres at 0, 2608 and 2611 Ramsey Road**

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA BY ESTABLISHING THE ZONING ON A 5.048± ACRES TRACT LOCATED ON THE NORTH SIDE OF RAMSEY ROAD AT ITS TERMINUS (A/K/A 0, 2608 AND 2611 RAMSEY ROAD) AT THE TIME OF ANNEXATION AS PLANNED UNIT DEVELOPMENT, WITH CONDITIONS (P-U-D-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**C. Second Reading: Ordinance No. 2018-04**

**Rezone 1.13± acres at 1351 Park Hill Drive**

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY CHANGING THE ZONING ON A 1.13± ACRES TRACT LOCATED ON THE NORTHWEST SIDE OF THE INTERSECTION OF PARK HILL DRIVE AND SOUTH ENOTA DRIVE (A/K/A 1351 PARK HILL DRIVE) FROM RESIDENTIAL-II (R-II) TO OFFICE AND INSTITUTIONAL, WITH CONDITIONS (O-I-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**D. Second Reading: Ordinance No. 2018-05**

**Amend Planned Unit Development at 1209 and 1229 Hillside Gardens Lane**

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY AMENDING THE EXISTING PLANNED UNIT DEVELOPMENT, WITH CONDITIONS (P-U-D-c) ZONING ON A 2.98± ACRES TRACT LOCATED ON THE NORTHEAST SIDE THE INTERSECTION OF MCEVER ROAD AND HILLSIDE GARDENS LANE (A/K/A 1209 AND 1229 HILLSIDE GARDENS LANE); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**E. Second Reading: Ordinance No. 2018-06**

**Amend Unified Land Development Code as it Pertains to Meetings and Action by the Governing Body**

AN ORDINANCE TO TO AMEND SECTION 9-21-1-7 OF THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA ENTITLED "MEETINGS" AND TO AMEND SECTION 9-22-2-18 OF THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA ENTITLED "ACTION BY GOVERNING BODY" BY ELIMINATING SAID SECTIONS IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**CITY MANAGER ISSUES:**

**CITY ATTORNEY ISSUES:**

- A. BR-2018-14 Authorization to Execute Intergovernmental Agreement By and Between the City of Gainesville and Gainesville Redevelopment Authority for Real Property Off of Green Street
- B. BR-2018-15 Authorization to Execute Intergovernmental Agreement By and Between the City of Gainesville and Gainesville Redevelopment Authority Regarding Sale of Real Property to 330 Main Street, LLC

**CITY CLERK ISSUES:**

**EXECUTIVE SESSION:**

**ADJOURNMENT:**

Final: Monday, February 19, 2018, 8:30 AM

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 2/15/2018  
**Presenter:** Danny Dunagan  
**Item of Business:** State of the City Address 2018  
**Meeting Date:** 2/20/2018

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**Purpose of Request:**

Mayor Dunagan will report on activities that occurred during 2017.

**History/Background:**

**Facts & Issues for Consideration:**

**Department Recommendation:**

**Department Director:**

Catiel Felts

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**If funding is involved, are funds approved within the current budget?**

N/A

**Amount Requested:** **Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

This presentation will include a speech and a slide show that will be forthcoming.

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**ATTACHMENTS:**

| Description                                             | Type                    |
|---------------------------------------------------------|-------------------------|
| <input type="checkbox"/> State of the City Address 2018 | Presentation            |
| <input type="checkbox"/> State of the City Address 2018 | Powerpoint Presentation |

On behalf of the Gainesville City Council it is my pleasure to present the State of the City Address for 2018.

In just a moment you will hear about dozens of projects that have been completed in the past year. I always like to start off talking about the City's financial position, of which we are very proud.

The City's diverse revenue sources, which help us rely less on property taxes, continue to track favorably with the budget. This is a sign that the local economy in Gainesville is very strong. As always, Departments are monitoring expenditure levels to ensure that spending continues to be under budget.

The assessed value of taxable property in Gainesville as of January 2017 was \$5.8 billion. That's an 8.25 % increase from the previous year.

The City of Gainesville maintains a flexible, yet thorough, five year capital improvement plan whereby capital needs are identified several years before funding is needed, to allow adequate time for planning.

The City's current five year general government capital improvements plan has identified \$66.3 million in projected expenditures through Fiscal Year 2022 including; streetscaping, relocation of Fire Station 2, water, and transportation projects, such as Jesse Jewell at Queen City Parkway intersection, Oak Tree Drive, and Dawsonville Highway corridor improvements.

This past June, we completed a lengthy, but successful, negotiation with Hall County regarding our community's Service Delivery Strategy, which the State requires that we update once every 10 years. As we begin planning our fiscal year '19 budget this spring, we will be able to further explain to the Citizens and taxpayers of Gainesville the benefits of this new agreement.

Gainesville continues to be one of the strongest communities in the state in regards to **Economic Development**. 17 new and expanded firms announced a total of 690 new jobs and over \$136 million in new capital investment in Gainesville last year.



The Gainesville Metro Area has led all Georgia Metro areas in having the lowest unemployment rate for several years in a row.

Earlier this month, the Milken Institute named Gainesville-Hall County #3 in the Nation in its *Best Performing Small Cities* index, but they also named Gainesville the top small Metro area in the Nation for job creation and #2 in the nation for High-Tech Gross Domestic Product growth. Gainesville doesn't just lead Georgia in these areas, but the rest of the Nation.

The **Gainesville Police Department's** efforts in the area of vehicular accidents is paying off. Crashes were down 3% citywide in 2017, with much of the focus being on the Dawsonville Highway corridor. Persons and property crimes are down 1% for the year.

Gainesville police responded to more than 70 thousand calls for service last year. And, the Department is celebrating the second year of the Explorers Program which is designed to mentor students ages 14-20 to get them interested in the field of law enforcement or the military.

Just a few months ago Gainesville Police Officers Michael Hand and Alexander Ball responded to a theft on Tower Heights Road where they found a mentally handicapped victim whose money and debit card had been stolen. The officers knew this victim was struggling. They gathered donations from the other officers on their shift and purchased a gift card.

The **Department of Water Resources** is one of Gainesville's oldest departments. Aging infrastructure means we are always maintaining, repairing, and replacing our pipes and facilities. At the end of this year we will complete a \$9 million dollar Water Quality Building at Riverside Water Treatment Plant. Since one of our main goals is to protect Lake Lanier we will begin construction soon on replacing the outlet where the Linwood Water Reclamation Facility discharges water into the lake to ensure water quality.

Over the past year, our Water Resources and Public Works crews dealt with Hurricanes, snow and ice. The harsh weather presented some challenges, but our employees met them head on. Our Water Resources Distribution and Collection Division employees responded to multiple water main and service line breaks during the cold weather events. We had crews working 80 hours a week in temperatures as low as 18 degrees to keep your water running.

The greatest challenge for our **Public Works** crews was Hurricane Irma. The total clean up took 26 days, involved 77 hundred man hours and resulted in 528 loads of debris.

Hurricane Irma might have brought the City to a standstill for a week, but it did not stop our solid waste workers from doing their jobs. Jeanie Buffington, who lives on Patton Drive, called us to say how thankful she was for the solid waste employee who helped her get her garbage to the curb in the middle of this natural disaster. She said he could have driven right by her house, but he stopped to help. Jeanie is here tonight to thank Eddie Marban in person.

Although our Public Works Department is made up of eight divisions, TRAFFIC is at the top of our TO DO list every year. I am pleased to report we are DOING more than ever to manage traffic in Gainesville. One of our newest accomplishments includes the installation of The Intelligent Transportation System which allows traffic signals along a corridor to be visually monitored and controlled remotely from a Traffic Control Center. This system has been successfully implemented along Dawsonville Highway and allowed for much improved transportation management during the peak holiday shopping periods.

We partnered with the Georgia Department of Transportation and the Metropolitan Planning Organization for one of the most thorough traffic studies ever conducted on Green Street. We are evaluating the recommendations from the study which include 2 round-a-bouts. And, we are also in the engineering and

design phase on a project at Oak Tree Drive that will involve moving truck traffic away from Green Street.

Public Works is also overseeing the installation of a landscaped median at the intersection of EE Butler Parkway and Spring Street as well as Streetscaping on Washington and Bradford Streets and the renovation of the Lee Gilmer Memorial Airport Terminal.

2017 will be remembered as another year of record development activity in Gainesville. Our **Community Development Department** issued more than 25 hundred building permits. New home starts stayed strong with 412 new home permits issued.

A year ago we were talking about additional housing improvements throughout our City and today you can actually see what we were talking about. Atlanta Street Apartments is now Walton Summit. Residents should be moving in this May. The 45-unit Enclave development began welcoming residents at the end of last year. The project not only provides needed affordable housing in the City, but also cleaned up a blighted City block located in the Midtown area.

Our **Code Enforcement Division** works daily to target and eliminate poor housing conditions. As a result of their efforts, 22 dilapidated houses were demolished and 32 completely renovated.

Our Downtown Master Plan stresses the importance of Connectivity. The City is in the process of extending the Midtown Greenway to the Pedestrian Bridge. Once this section is completed, the Gainesville portion of the Highlands to Islands Trail will include more than 2 miles of pedestrian friendly walkways from Midtown to Lake Lanier.

The **Gainesville Fire Department** rolled up in Big Red last August, a 100 foot platform truck designed to run every day calls. The truck was paid for with SPLOST VII funding and includes the latest diagnostic and camera technology.

One of the goals for this Class One Department this year is for every shift to visit five homes a month to install smoke alarms. If you know of someone who needs an alarm call the number on the screen.

The Fire Department responded to around 8500 calls last year. On one of the calls in September they found a 67 year old male complaining of chest pain. According to Dr. Jeff Marshall, the pre-hospital care and treatment decisions made by Engine 23 highlight why the Gainesville Fire Department continues to lead the way nationally in STEMI care, care for the most serious type of heart attack.

I remember the days when the only activities we had were football, baseball, basketball and golf. Today, parents juggle multiple sports year round and it's a little easier because of Gainesville Parks and Recreation.

In 2017 Frances Meadows Aquatic Center reached its \$1 million dollar milestone with the success of the Lanier Aquatics swim program, Senior adult fitness programs and another successful season for the outdoor splash zone. So much of what Parks and Recreation does is fun, but at the same time can be life altering. Take the story of 11 year old Larry Estes. Larry was diagnosed with a disease that causes accelerated aging in kids.

Doctors recommended sports as a means to slow progression. Larry tried different things but was never given the opportunity to play. Someone recommended swimming at Frances Meadows.

From the first moment of practice, Larry was made to feel comfortable. He has been a member of the Lanier Aquatics Swim Team for two years. His health has improved. The progression of his disease has slowed. Most importantly, Larry's self-esteem is high.

Working in close partnership with the Vision 2030 Public Art Committee, we launched the Public Art in Parks program installing sculptures and free range art

pieces throughout the Midtown Greenway. In addition, we unveiled the first of many Public Art pianos to come during the annual Christmas Parade on Green Street.

It's easy to see how our Nationally Accredited Parks and Recreation Agency generated \$9 million dollars in economic impact in 2017.

Expansion is the buzz word for the Community Service Center this year. Gainesville Connection is working with local business owners to support an expansion of the service.

The new state-of-the-art Sr. Life Center will include a dining hall, library, meeting space, bridge classes, rooms for pottery, meditation, computers, salon and a teaching kitchen designed to introduce seniors to more nutritious and economical meals with the hope of ending senior malnourishment.

Our Administrative Services Department recently implemented several new software applications automating the hiring process, document management, and payroll. And our I.T. Division continued their strong focus on I.T. Security... taking steps to ensure we are minimizing risk wherever possible within our organization.

Chattahoochee Golf Course added new netting on the driving range, extended the cart path on #8 and welcomed more than 26,000 rounds of golf last year. They also hosted the first Winter Junior Team Championship with 132 golfers and a waiting list! Current improvements include general club house upgrades.

Last May we announced three construction projects valued at \$53 million dollars that will change the face of Downtown Gainesville forever. The addition of downtown housing, new retail, restaurants, and two additional levels on the Gainesville Parking Deck will enhance an already successful downtown. We are looking for ways to minimize the impact these projects will have on parking and

partnering with other utility companies to replace aging infrastructure on several downtown streets.

Although downtown will be UNDER CONSTRUCTION we are expecting more than 150,000 people this year. Our Main Street program will move the First Friday Concerts to Roosevelt Square, but keep some of the smaller events in their usual location. We'll kick off our Event Season with LepreCon on March 17. The best way to keep up with what's going on in Gainesville is to Get Connected through Social Media.

The Gainesville Convention and Visitors Bureau contributes greatly to the Three Billion Dollar tourism industry in the State of Georgia. Fishing and sports related events continue to be strong for our economy. Gainesville's Tourism program is funded through Hotel/Motel tax, which has doubled in the past ten years.

In September, Gainesville will host the Dragon Boat World Championships. This is the first time this event has been held in North America. 25 International teams will converge on Lake Lanier Olympic Park, much like they did during the 96 Olympics, resulting in an economic impact of \$5 million dollars. Overall, Lake Lanier Olympic Park generated more than 4 million in Economic Impact in 2017.

In closing, I would like to thank....the citizens for letting me serve as Mayor...my fellow Council Members, who have to make tough decisions on a daily basis...our City Manager, Bryan Lackey, whose leadership keeps moving us forward in the right direction... and our 792 employees who keep the water running, the garbage picked up, and the streets safe. There's not a week that goes by that we don't get a phone call or an email about how our employees go above and beyond.

I am truly grateful to be here with each of you tonight and be able to recognize so many wonderful people who make me proud to call Gainesville my home.

XXX

# STATE OF THE CITY 2018



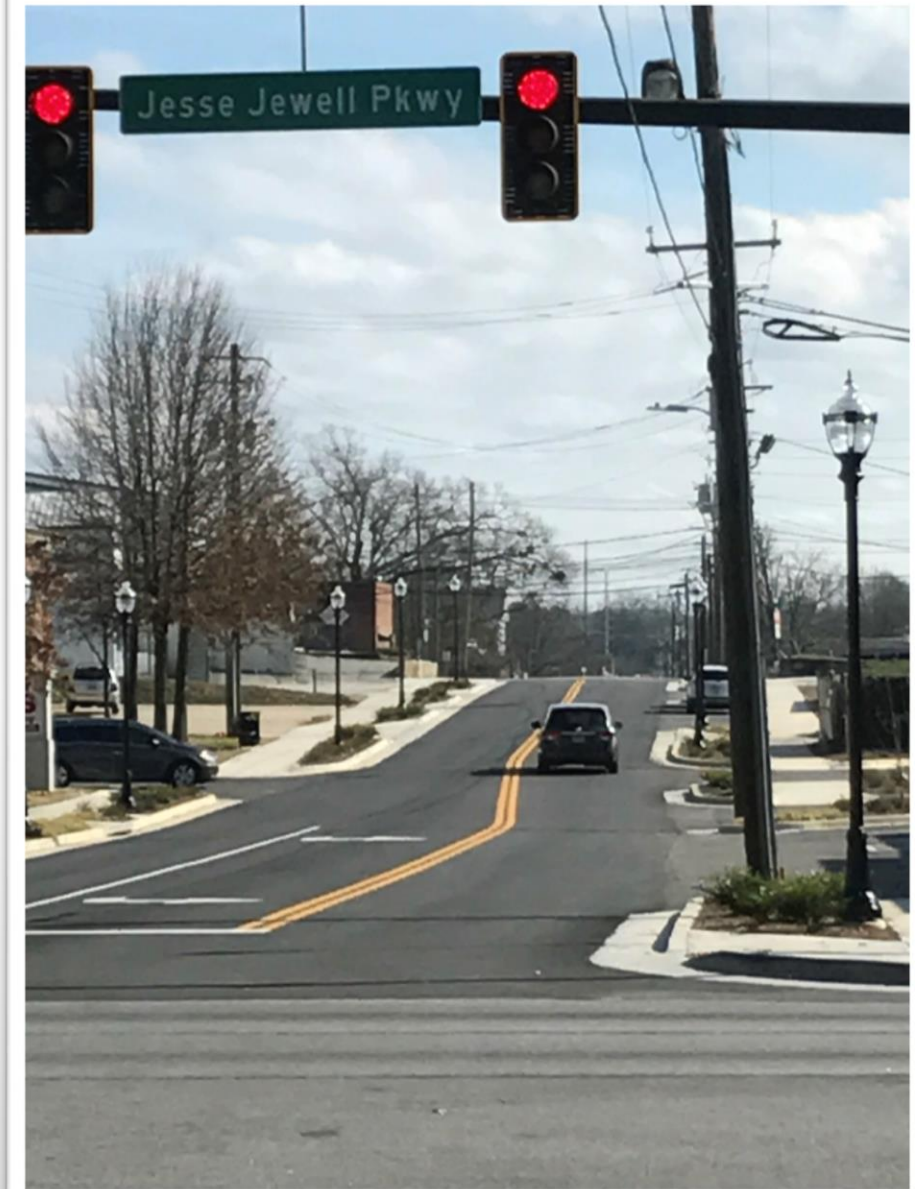


CITY OF GAINESVILLE City Manager's Office CITY OF GAINESVILLE Chattahoochee Golf Course CITY OF GAINESVILLE  
Community Service Center CITY OF GAINESVILLE Planning and Development CITY OF GAINESVILLE Parks and Recreation CITY  
OF GAINESVILLE Police Department CITY OF GAINESVILLE Fire Department CITY OF GAINESVILLE Communication and  
Tourism CITY OF GAINESVILLE Public Utilities CITY OF GAINESVILLE Public Works CITY OF GAINESVILLE Human Resources



CITY OF GAINESVILLE City Manager's Office CITY OF GAINESVILLE Chattahoochee Golf Course CITY OF GAINESVILLE  
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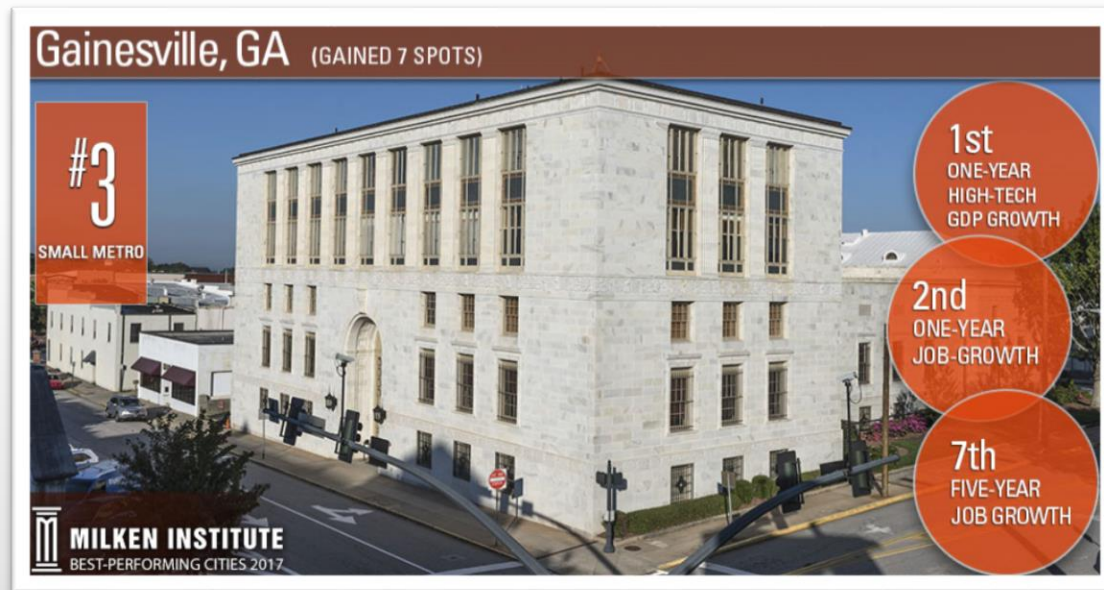




\$136 Million New Investment



# Leading the Nation



*“Top small Metro area for job creation”*

*“#2 in the Nation for High-tech  
Gross Domestic Product”*





**Over  
70,000  
Calls for  
Service**











**“Water Quality is Our Main  
Priority”**

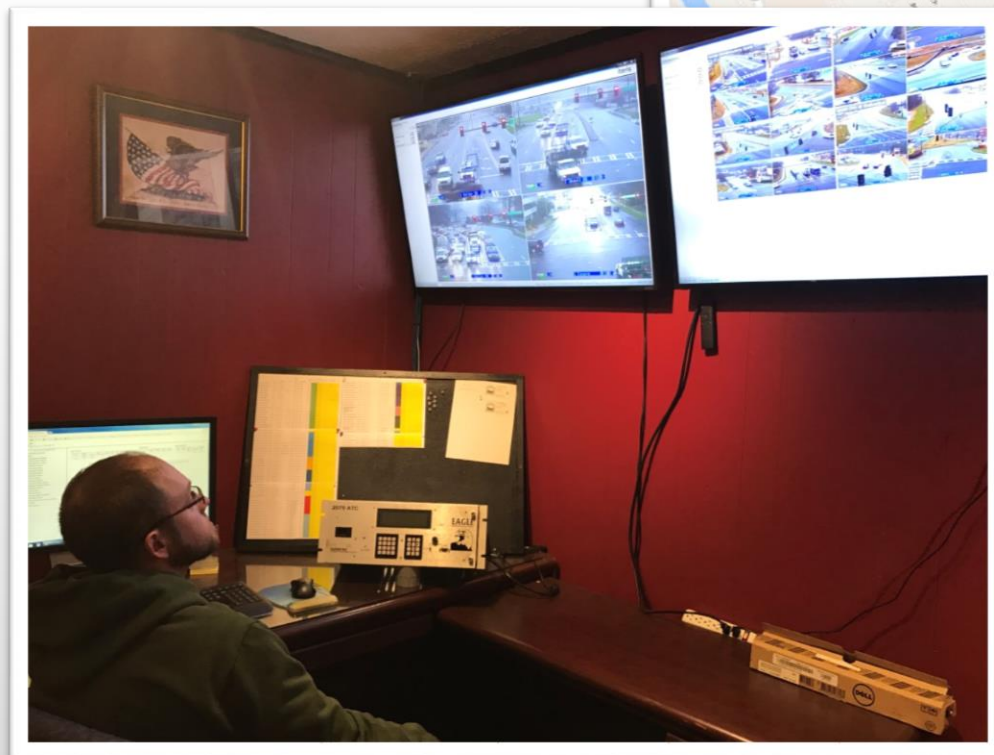
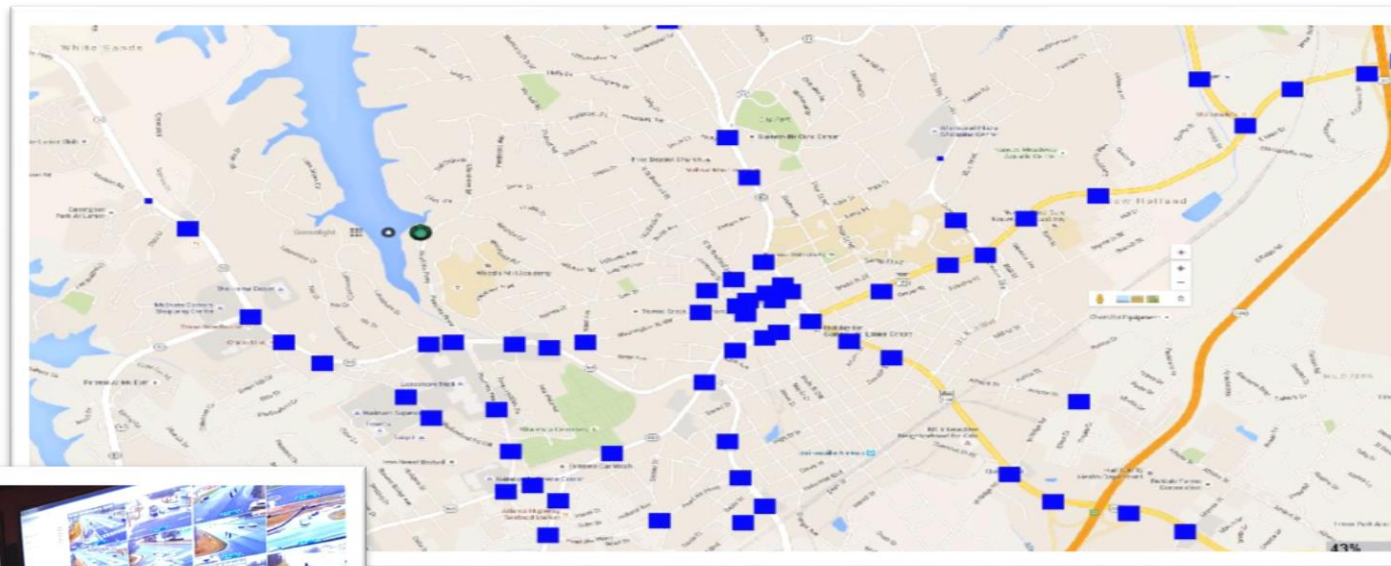














# Walton Summit





# Enclave





# 631 Dorsey Street

**BEFORE**



**AFTER**



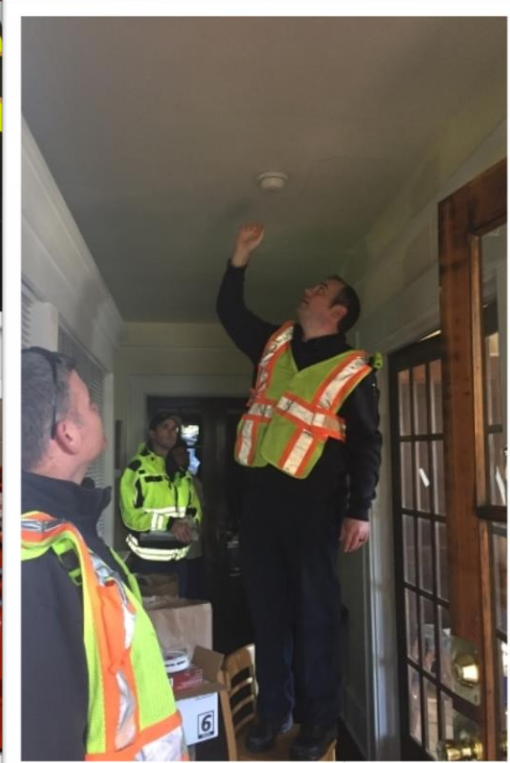








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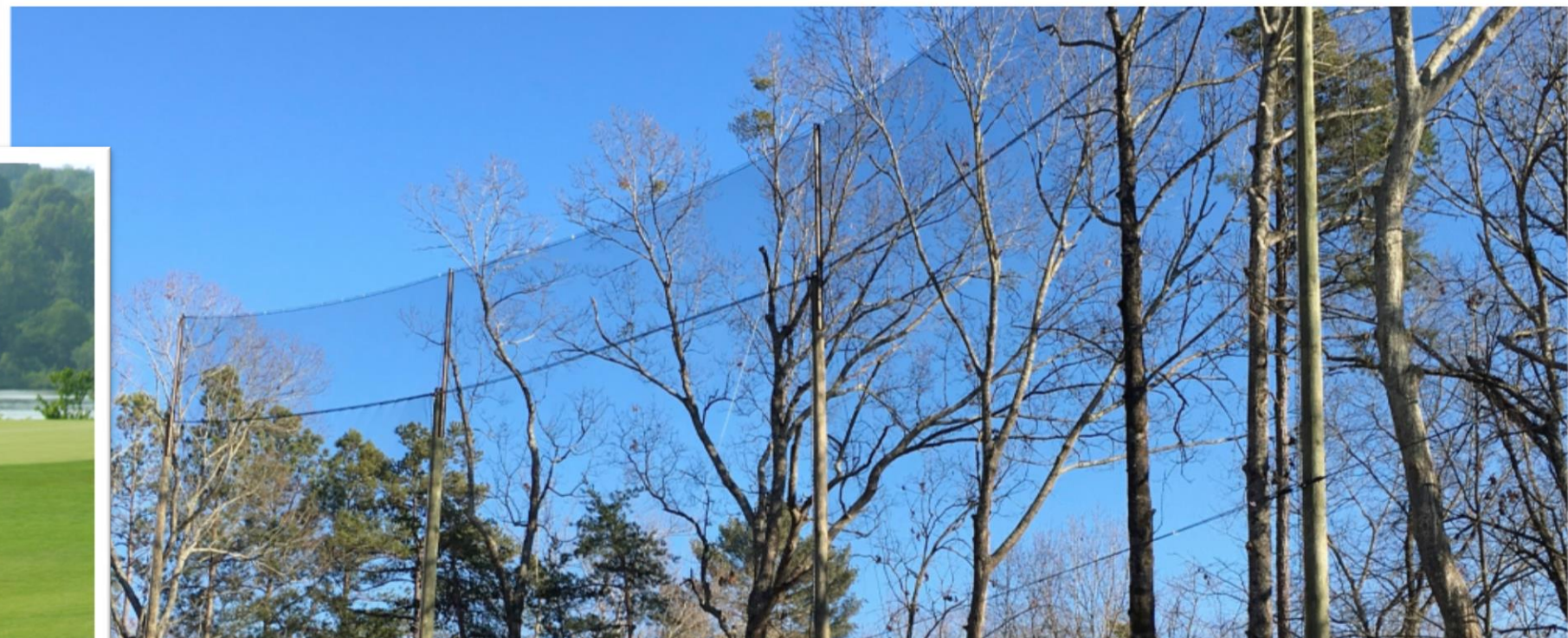




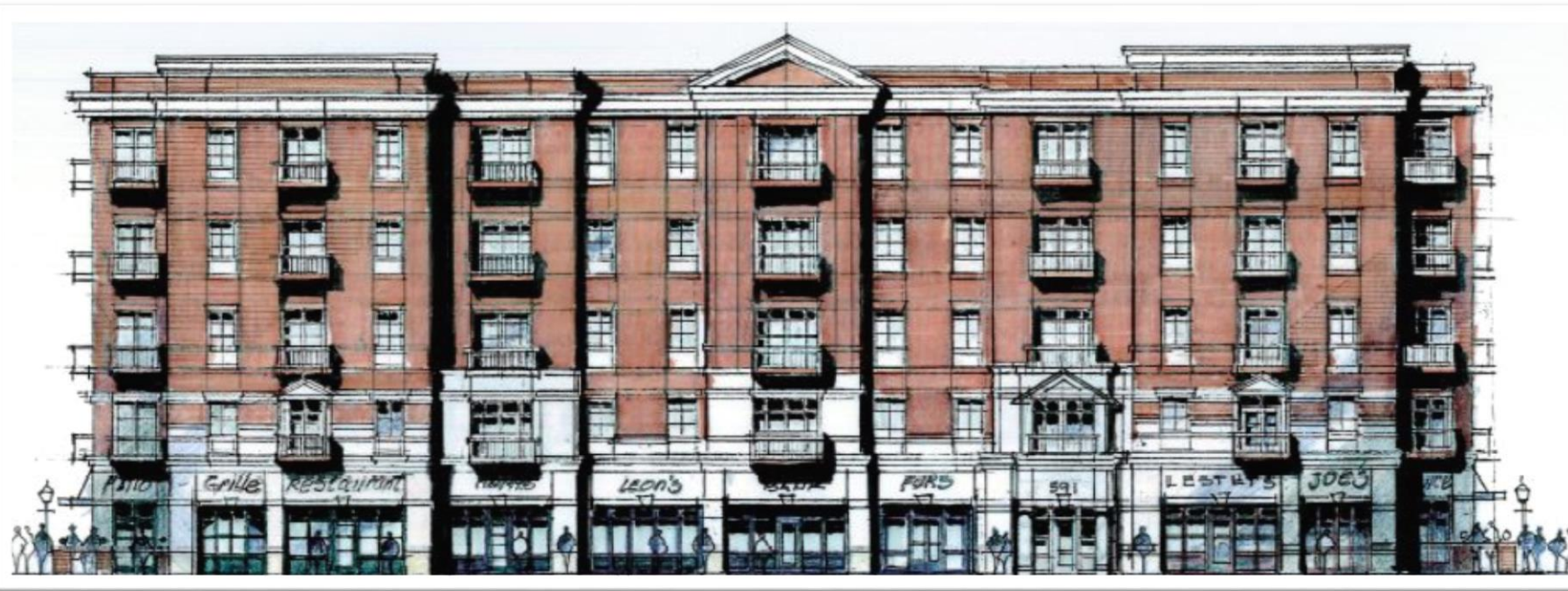
# 792 Employees











**Parkside  
on the Square**

**Carroll  
Daniel  
Construction  
  
Main Street  
Lot**







@downtowngainesville





# Main Street Gainesville presents TWO GREAT EVENTS!



**SATURDAY**  
**March 17**

**5pm-8pm**

**FUN RUN!**  
**CONCERT!**

**Kids Coin Hunt!**

**Downtown is going to the Dogs!**



**Saturday, March 24**  
**10am-4pm**

ADOPTIONS PET VENDORS CONTESTS

FASHION SHOW CONCERT

RABIES/MICROCHIPPING

**[www.downtowngainesville.com](http://www.downtowngainesville.com)**







# Gainesville Welcomes the World

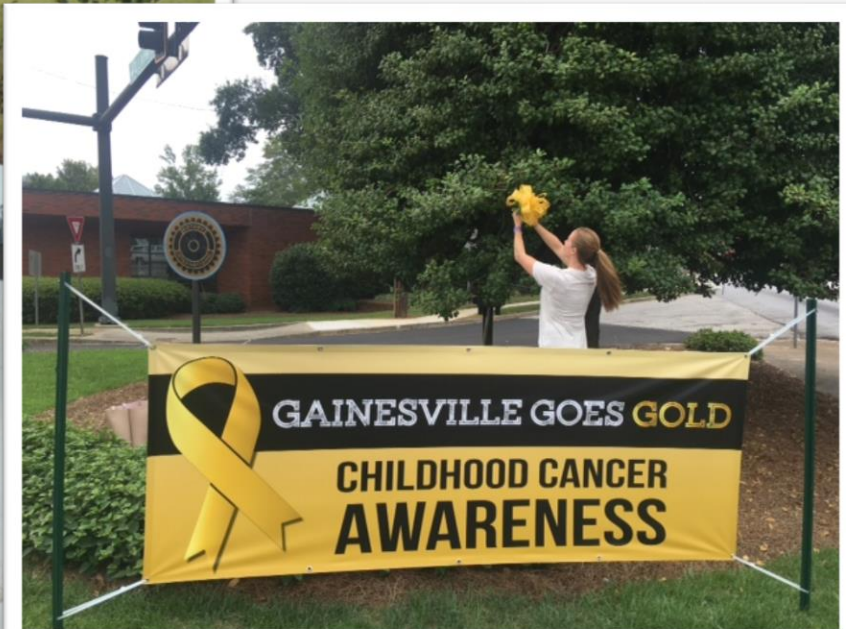
September 12–16















**Gainesville.org**

**@gainesvillegeorgiagovernment**

**770-535-6860**

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 2/9/2018

**Presenter:**

**Item of Business:** Consent Agenda Items

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

The following appointments, minutes and/or resolutions are being considered under the Consent Agenda Section. These items were previously distributed for review and/or discussed. Unless otherwise directed by Mayor and Council, they will not be discussed during this meeting.

If you have questions regarding these documents, please feel free to contact the City Clerk's Office during normal business hours (Monday through Friday from 8:00 AM to 5:00 PM) at 770-535-6865 or via email to [cityclerk@gainesville.org](mailto:cityclerk@gainesville.org).

**History/Background:**

**Facts & Issues for Consideration:**

**Department Recommendation:**

**Department Director:**

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 2/16/2018  
**Presenter:** Denise Jordan  
**Item of Business:** February 1, 2018 Work Session  
**Meeting Date:** 2/20/2018

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**Purpose of Request:**

The purpose of this request is to allow the governing body to approve minutes from the referenced meeting.

**History/Background:**

**Facts & Issues for Consideration:**

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

**Department Recommendation:**

Approve the minutes accepting edits as presented.

**Department Director:**

Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**

N/A

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

Description

Type

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 2/16/2018  
**Presenter:** Denise Jordan  
**Item of Business:** February 6, 2018 Mayor/Council Meeting  
**Meeting Date:** 2/20/2018

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**Purpose of Request:**

The purpose of this request is to allow the governing body to approve minutes from the referenced meeting.

**History/Background:**

**Facts & Issues for Consideration:**

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

**Department Recommendation:**

Approve the minutes accepting edits as presented.

**Department Director:**

Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**

N/A

**Amount Requested:** **Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

Description

Type



# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 1/23/2018  
**Presenter:** Bryan Lackey  
**Item of Business:** PR-2018-05 Syfan Logistics, Inc. Donation  
**Meeting Date:** 2/20/2018

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**Purpose of Request:**

Requesting approval to accept a donation from Syfan Logistics, Inc.

**History/Background:**

Syfan Logistics, Inc. has announced that the Gainesville Police Department has been selected to receive a donation in the amount of \$1,500.00 from The Syfan Logistics Charitable Fund.

**Facts & Issues for Consideration:**

The Police Department has needs that are related to law enforcement programs and educational materials.

**Department Recommendation:**

Acceptance of said donation.

**Department Director:**

Carol Martin

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                      | Type       |
|------------------------------------------------------------------|------------|
| <input type="checkbox"/> PR-2018-05 Syfan Logistics Inc Donation | Resolution |

**RESOLUTION PR-2018-05**

**DONATION FROM SYFAN LOGISTICS, INC.  
FOR THE GAINESVILLE POLICE DEPARTMENT**

**WHEREAS**, Syfan Logistics, Inc. has selected the Gainesville Police Department to receive a donation; and

**WHEREAS**, Syfan Logistics, Inc. has indicated that the Gainesville Police Department will receive \$1,500.00 from the Syfan Logistics Charitable Fund; and

**WHEREAS**, the Gainesville Police Department has needs which are related to law enforcement programs and educational materials.

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City of Gainesville hereby authorizes the acceptance of said donation by Syfan Logistics, Inc.

**Adopted this** \_\_\_\_\_ **day of** \_\_\_\_\_, **2018.**

\_\_\_\_\_  
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

\_\_\_\_\_  
**Denise O. Jordan, City Clerk**



# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 1/16/2018

**Presenter:** Bryan Lackey

**Item of Business:** **Second Reading: Home Rule Ordinance 2018-01**  
**Discontinue Second Readings and Clarify Voting Powers of the Mayor**  
AN ORDINANCE TO AMEND SUBSECTION B OF SECTION 2.23 ENTITLED "ORDINANCE FORM; PROCEDURES" OF THE CHARTER OF THE CITY OF GAINESVILLE, GEORGIA AND SUBSECTION 1 OF SECTION 2.29 ENTITLED "POWERS AND DUTIES OF MAYOR" OF THE CHARTER OF THE CITY OF GAINESVILLE, GEORGIA BY ELIMINATING SAID SUBSECTIONS IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING PROVISIONS OF THE CHARTER; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

*The purpose of this request is to hold second reading on Home Rule Ordinance 2018-01. First reading was held on 2/6/18.*

This amended ordinance request (1) discontinues the need for the second reading of ordinances (except when required by state/federal law) and (2) provides additional detail as to the powers and duties of the Mayor, and to obtain permission to proceed with amending the Charter.

**History/Background:**

The governing body asked staff to investigate the possibility of discontinuing the second reading of ordinances, and to clarify the powers and duties of the Mayor.

**Facts & Issues for Consideration:**

The proposed ordinance is an amendment to the Charter that is being processed utilizing home rule powers. This process takes at least five weeks to complete after authorization from the governing body to proceed. The anticipated date for first reading is February 6, 2018.

**Department Recommendation:**

To hold second reading on the Home Rule Ordinance 2018-01.

**Department Director:**

Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                                       |                                                                               | Type            |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-----------------|
|  | HR-2018-01 Ordinance: Discontinue Second Readings and Clarify Duties of Mayor | Ordinance       |
|  | Process and Proposed Timeline                                                 | Backup Material |



|                |                             |
|----------------|-----------------------------|
| Published:     | <u>01/25/2018</u>           |
| Published:     | <u>02/01/2018</u>           |
| First Reading: | <u>02/06/2018</u>           |
| Published:     | <u>02/08/2018</u>           |
| Passed:        | <u>                    </u> |

## **HOME RULE ORDINANCE**

**HR- 2018-01**

**AN ORDINANCE TO AMEND SUBSECTION B OF SECTION 2.23 ENTITLED “ORDINANCE FORM; PROCEDURES” OF THE CHARTER OF THE CITY OF GAINESVILLE, GEORGIA AND SUBSECTION 1 OF SECTION 2.29 ENTITLED “POWERS AND DUTIES OF MAYOR” OF THE CHARTER OF THE CITY OF GAINESVILLE, GEORGIA BY ELIMINATING SAID SUBSECTIONS IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING PROVISIONS OF THE CHARTER; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

### **SECTION I.**

Subsection (b) of Section 2.23 of the Charter of the City of Gainesville, Georgia is hereby amended to read as follows:

- (b) An ordinance may be introduced by any member of the governing body and be read at a regular or special meeting. Ordinances shall be considered and adopted or rejected by the governing body in accordance with the rules which it shall establish. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember.

### **SECTION II.**

Subsection (1) of Section 2.29 of the Charter of the City of Gainesville, Georgia is hereby amended to read as follows:

- (1) Preside at meetings of the governing body where he or she shall have all the rights, powers, duties, and responsibilities of a councilmember except that the mayor shall not make a motion or second a motion and shall be entitled to vote on matters before the governing body only in the following situations: (a) when there is an equal division on the question; (b) when the mayor’s vote will provide the fourth affirmative vote required for approval of a matter; or (c) when the mayor’s vote will provide the majority vote required for approval of a matter. The mayor shall also be entitled to vote on the election and removal of the following officers and employees of the council: mayor pro tempore, city manager, city attorney, municipal court judge, solicitor, and city auditor;

## HOME RULE ORDINANCE 2018-01

### **SECTION III.**

The Charter and all Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

### **SECTION IV.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

### **SECTION V.**

The effective date of this Ordinance shall be upon approval by the Governing Body of the City of Gainesville.

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**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

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**Denise O. Jordan, City Clerk**



**Amendment to Charter as it relates to Second Readings and Voting Requirements**

**PROCEDURE FOR CHARTER AMENDMENTS**

1. Presentation to Council at Work Session seeking approval to proceed with advertisement
2. Proposed ordinance filed in City Clerk's Office and Clerk of Superior Court's Office
3. Notice of proposed amendment published in legal organ once a week for 3 weeks within a period of 60 days before final adoption. Notice shall include the caption on the ordinance and shall state a copy of the proposed amendment is on file in the City Clerk's Office and in the Clerk of the Superior Court's Office for public inspection.
4. Adopt ordinance at two regularly scheduled consecutive meetings not less than 7 nor more than 60 days apart.
5. Obtain Publisher's Affidavit from legal organ.
6. Provide Secretary of State and Clerk of Superior Court with a copy of the approved ordinance, a certified copy of the minutes (first and second reading) and a copy of the publisher's affidavit. Mail to Secretary of State, Elections Division, Suite 1104 West Tower, 2 MLK Jr. Drive, Atlanta, Georgia 30334
7. In general, the process takes between 5 and 9 weeks to complete.

**TIMELINE FOR ADOPTING THE ORDINANCE**

| <b>ACTION</b>                          | <b>PROPOSED SCHEDULE</b> | <b>ACTUAL SCHEDULE</b> |
|----------------------------------------|--------------------------|------------------------|
| Presentation at Work Session           | 1/18/18                  | 1/18/18                |
| Approval to move forward               | 1/18/18                  | 1/18/18                |
| Filed with Clerk of Superior Court     | 1/19/18                  | 1/19/18                |
| Published                              | 1/25/18                  | 1/25/18                |
| Published                              | 2/1/18                   | 2/1/18                 |
| First Reading                          | 2/6/18                   | 2/6/18                 |
| Published                              | 2/8/18                   | 2/8/18                 |
| Advise Council advertising is complete | 2/15/18                  |                        |
| Passed                                 | 2/20/18                  |                        |
| Publisher's Affidavit                  | 2/9/18 – 2/20/18         |                        |
| Mailed to Secretary of State           | 2/23/18                  |                        |

Notes:

- ULDC will need to be amended. The request goes before the Planning and Appeals Board on January 16, 2018.
- Build a schedule that allows the Charter amendment and the ULDC amendment to be adopted at the same meeting or as close together as possible.
- The proposed schedule allows both ordinance (ULDC and Charter amendment) to be considered at the same Council Meetings.

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 2/8/2018  
**Presenter:** Bryan Lackey  
**Item of Business:** BR-2018-13 Rules and Procedures for Adopting Ordinances  
**Meeting Date:** 2/20/2018

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**Purpose of Request:**

The purpose of this resolution is to update the governing body's procedures for adopting ordinances.

**History/Background:**

**Facts & Issues for Consideration:**

Local legislation has been introduced to discontinue the second reading of ordinances except when required by state/federal regulations. The procedures for adopting ordinances must be updated if the new legislation is adopted. The City Attorney provided assistance with preparing the proposed resolution.

**Department Recommendation:**

Adopt the resolution as presented.

**Department Director:**

Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                                 | Type                 |
|-----------------------------------------------------------------------------|----------------------|
| <input type="checkbox"/> BR-2018-13 2018 Procedures for Adopting Ordinances | Resolution           |
| <input type="checkbox"/> Proedures for Adopting Ordinances                  | Attachments/Exhibits |



**RESOLUTION BR-2018-13**

**RULES AND PROCEDURES FOR ADOPTING ORDINANCES**

**WHEREAS**, Section 2.23(b) of the Charter for the City of Gainesville requires the governing body to establish rules and procedures for adopting ordinances; and

**WHEREAS**, Business Resolution 2013-02 was adopted on January 8, 2013, establishing procedures for adopting ordinances; and

**WHEREAS**, a review of the existing procedures identified an opportunity to improve efficiency by discontinuing the second reading of ordinances except when required by federal and/or state law.

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body hereby adopts the rules and procedures for adopting ordinances as shown on the attached Exhibit "A."

**BE IT FURTHER RESOLVED THAT** Business Resolution 2013-02 is rescinded upon adoption of this resolution.

**Adopted this** \_\_\_\_ **day of** \_\_\_\_\_, **2018.**

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**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

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**Denise O. Jordan, City Clerk**

**RULES AND PROCEDURES FOR ADOPTING ORDINANCES**

**EXHIBIT A**

1. Proposed ordinances shall be drafted by staff with assistance from the City Attorney using the ordinance template as provided by the City Clerk's Office.
2. Proposed ordinances shall be routed through the agenda manager software for approval.
3. Proposed ordinances shall be presented at a work session and available for distribution before official action is taken by the governing body, except in emergency situations as provided by law.
4. Proposed ordinances shall be assigned a reference number and shall be listed as a Council Meeting agenda item.
5. Proposed ordinances shall be adopted upon meeting the voting requirements set forth in the City Charter with the effective date as referenced within the ordinance after one reading before the governing body unless otherwise required by state or federal law.
6. Adopted ordinances shall be printed, signed, sealed and filed in the Ordinance Book for permanent retention.
7. Adopted ordinances shall be posted on the citywide server (V Drive) and shall be submitted for codification when applicable.



# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 1/22/2018

**Presenter:** Danny Dunagan

**Item of Business:** **Second Reading: Ordinance No. 2018-02**  
**Annex 5.048± acres at 0, 2608 and 2611 Ramsey Road**  
AN ORDINANCE ANNEXING A 5.048± ACRES TRACT LOCATED ON THE NORTH SIDE OF RAMSEY ROAD AT ITS TERMINUS (A/K/A 0, 2608 AND 2611 RAMSEY ROAD); ADJACENT TO BUT NOT NOW WITHIN THE CORPORATE LIMITS OF THE CITY OF GAINESVILLE, GEORGIA; REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

*The purpose of this request is to hold second reading on Ordinance 2018-02. First reading was held on 2/6/18.*

The applicant is proposing to annex the subject property with a zoning of Planned Unit Development (P-U-D) for the purpose of utilizing city sewer for 3 single-family lots that would access a future shared driveway. The property is currently zoned Planned Residential Development (P-R-D) within unincorporated Hall County and is adjacent to the city limits to the south and east. In 2008, the subject tract was conditionally approved for a 3 lot subdivision in the county but has remained undeveloped. The property touches Lake Lanier to the north, is heavily wooded, contains sloping topography and has minimal access on Ramsey Road. Nearby uses include mostly undeveloped land, a single-family home and Kubota Manufacturing.

**History/Background:**

**This agenda item was tabled at the December 12, 2017 PAB meeting** in order to modify the boundary survey which removed the neighbors septic drain field from the subject property. By doing so, there was a 0.16 acre reduction in the size of the subject property to be annexed.

**Facts & Issues for Consideration:**

**Department Recommendation:**

To hold second reading on Ordinance No. 2018-02.

**Department Director:**

Rusty Ligon

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                                                                                               | Type      |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|  2nd Reading Ord. 2018-02 EDRE Assets, LLC - Ramsey Road | Ordinance |



First Reading: 02/06/2018  
Passed: \_\_\_\_\_

**AN ORDINANCE**

**No. 2018-02**

**AN ORDINANCE ANNEXING A 5.048± ACRES TRACT LOCATED ON THE NORTH SIDE OF RAMSEY ROAD AT ITS TERMINUS (A/K/A 0, 2608 AND 2611 RAMSEY ROAD); ADJACENT TO BUT NOT NOW WITHIN THE CORPORATE LIMITS OF THE CITY OF GAINESVILLE, GEORGIA; REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**(Amendment to City Limit Boundary)**

**WHEREAS**, a 5.048± acres tract located on the north side of Ramsey Road at its terminus (a/k/a **0, 2608 and 2611 Ramsey Road**), lies within the unincorporated lands of Hall County and adjoins the existing corporate limits of the City of Gainesville; and

**WHEREAS**, the hereinafter described lands be incorporated and annexed into the City of Gainesville.

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

That from and after the passage of this Ordinance the following described lands are and shall be annexed into the existing corporate limits of the City of Gainesville, Georgia, so that said lands shall constitute a part of the land within the corporate limits of the City of Gainesville, Georgia, as fully and completely as if the limits had been so defined by the General Assembly of Georgia.

**Legal Description**

All that tract or parcel of land lying and being in Land Lot 110, 9th Land District, Hall County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for EDRE Assets LLC, dated October 23rd, 2017 and being more particularly described as follows:

Commencing at a PK nail found at the centerline intersection of Sargent Road and Goetz Drive, located at Georgia State Plane Coordinate Northing 1582894.36, Easting 2413061.19, Georgia West Zone, North American Datum of 1983/2007 adjustment, THENCE North 84 degrees 35 minutes 01 seconds West for a distance of 1,309.68 feet to a 1/2" rebar pin found on the Northerly right-of-way line cul-de-sac of Ramsey Road (having a 60' radius & a 80' wide right-of-way), and said point being the TRUE POINT OF BEGINNING.

Thence along the cul-de-sac right-of-way line for Ramsey Road the following course:

## **ORDINANCE NO. 2018-02**

Thence along a curve to the left having a radius of 60.00 feet and an arc length of 41.94 feet, being subtended by a chord of South 50 degrees 45 minutes 24 seconds West for a distance of 41.09 feet to a 1/2" rebar pin found;

Thence leaving said Ramsey Road the following courses:

Thence North 65 degrees 37 minutes 15 seconds West for a distance of 180.19 feet to a 1/2" rebar pin found; Thence North 26 degrees 30 minutes 25 seconds West for a distance of 171.11 feet to a 1/2" rebar pin found; Thence North 12 degrees 49 minutes 46 seconds East for a distance of 68.08 feet to a 1/2" rebar pin found; Thence North 21 degrees 07 minutes 02 seconds West for a distance of 168.51 feet to a 1/2" rebar pin found; Thence North 31 degrees 11 minutes 56 seconds West for a distance of 88.56 feet to a 1/2" rebar pin found on the boundary line of the U.S. Government Buford Reservoir, Lake Sidney Lanier;

Thence following the boundary line of the U.S. Government Buford Reservoir, Lake Sidney Lanier the following courses:

Thence North 58 degrees 48 minutes 00 seconds East for a distance of 111.97 feet to a concrete monument found at Government corner #110-27; Thence South 32 degrees 43 minutes 20 seconds East for a distance of 96.77 feet to an angle iron found at Government corner #110-26; Thence North 58 degrees 52 minutes 08 seconds East for a distance of 248.40 feet to an angle iron found at Government corner #110-25; Thence South 32 degrees 37 minutes 31 seconds East for a distance of 348.14 feet to a an angle iron found at Government corner #110-24;

Thence leaving the boundary line of the U.S. Government Buford Reservoir, Lake Sidney Lanier the following courses:

Thence South 32 degrees 37 minutes 31 seconds East for a distance of 137.19 feet to a 1/2" rebar pin found; Thence South 55 degrees 53 minutes 34 seconds West for a distance of 319.81 feet to a 1/2" rebar pin found; Thence South 19 degrees 13 minutes 26 seconds East for a distance of 18.82 feet to a point and said point being the POINT OF BEGINNING.

Said property contains 5.048 acres more or less.

### **SECTION II.**

The Secretary to the City Council of the City of Gainesville is directed to make and file with the Department of Community Affairs of the State of Georgia a certified copy of this Ordinance together with a plat describing lands annexed to the City of Gainesville by this Ordinance.

### **SECTION III.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

### **SECTION IV.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.



**ORDINANCE NO. 2018-02**

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the governing authority of the City of Gainesville, Georgia.

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**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

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**Denise O. Jordan, City Clerk**

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 1/22/2018

**Presenter:** Danny Dunagan

**Item of Business:** **Second Reading: Ordinance No. 2018-03**  
**Zone 5.048± acres at 0, 2608 and 2611 Ramsey Road**  
AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA BY ESTABLISHING THE ZONING ON A 5.048± ACRES TRACT LOCATED ON THE NORTH SIDE OF RAMSEY ROAD AT ITS TERMINUS (A/K/A 0, 2608 AND 2611 RAMSEY ROAD) AT THE TIME OF ANNEXATION AS PLANNED UNIT DEVELOPMENT, WITH CONDITIONS (P-U-D-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

*The purpose of this request is to hold second reading on Ordinance 2018-03. First reading was held on 2/6/18.*

The applicant is proposing to annex the subject property with a zoning of Planned Unit Development (P-U-D) for the purpose of utilizing city sewer for 3 single-family lots that would access a future shared driveway. The property is currently zoned Planned Residential Development (P-R-D) within unincorporated Hall County and is adjacent to the city limits to the south and east. In 2008, the subject tract was conditionally approved for a 3 lot subdivision in the county but has remained undeveloped. The property touches Lake Lanier to the north, is heavily wooded, contains sloping topography and has minimal access on Ramsey Road. Nearby uses include mostly undeveloped land, a single-family home and Kubota Manufacturing.

**History/Background:**

**This agenda item was tabled at the December 12, 2017 PAB meeting** in order to modify the boundary survey which removed the neighbors septic drain field from the subject property. By doing so, there was a 0.16 acre reduction in the size of the subject property to be annexed.

**Facts & Issues for Consideration:**

**Department Recommendation:**

To hold second reading on Ordinance No. 2018-03.

**Department Director:**

Rusty Ligon

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**



**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                                                                                               | Type      |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|  2nd Reading Ord. 2018-03 EDRE Assets, LLC - Ramsey Road | Ordinance |

**AN ORDINANCE**

**No. 2018-03**

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA BY ESTABLISHING THE ZONING ON A 5.048± ACRES TRACT LOCATED ON THE NORTH SIDE OF RAMSEY ROAD AT ITS TERMINUS (A/K/A 0, 2608 AND 2611 RAMSEY ROAD) AT THE TIME OF ANNEXATION AS PLANNED UNIT DEVELOPMENT, WITH CONDITIONS (P-U-D-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**(Amendment to Zoning Map)**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

That from and after the passage of this Ordinance the following described lands shall be zoned and so designated on the Zoning Map of the City of Gainesville as **Planned Unit Development, with conditions (P-U-D-c)**.

**Conditions**

1. The proposal shall be limited to a maximum of 3 single-family lots and shall adhere to the development standards as depicted within the narrative, concept plan and architectural renderings submitted with the application.
2. The minimum heated floor space of each single-family home shall be 2,000 square feet.
3. Completion of the common driveway shall be required prior to the issuance of a Certificate of Occupancy for the proposed homes. Access point design of the proposed shared driveway along Ramsey Road must be reviewed and approved by the Gainesville Public Works Department. All road improvements associated with access to the subject property shall be at the full expense of the developer.
4. The owner/developer shall disclose the existence of industrial activities on adjacent and nearby properties as part of the purchase/sale agreement with potential buyers. Said disclosure shall state: "Owners, occupants, and users of property shown are hereby informed of the impacts associated with industrial practices which may take place on adjacent and nearby property including, but not limited to noise, odors, dust, traffic and the operation of machinery. Therefore, owners, occupants and users of the property should be prepared to expect the effects of such practices."
5. All conditions of zoning shall be made a part of any final plat created for the subdivision.

## ORDINANCE NO. 2018-03

### Legal Description

All that tract or parcel of land lying and being in Land Lot 110, 9th Land District, Hall County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for EDRE Assets LLC, dated October 23rd, 2017 and being more particularly described as follows:

Commencing at a PK nail found at the centerline intersection of Sargent Road and Goetz Drive, located at Georgia State Plane Coordinate Northing 1582894.36, Easting 2413061.19, Georgia West Zone, North American Datum of 1983/2007 adjustment, THENCE North 84 degrees 35 minutes 01 seconds West for a distance of 1,309.68 feet to a 1/2" rebar pin found on the Northerly right-of-way line cul-de-sac of Ramsey Road (having a 60' radius & a 80' wide right-of-way), and said point being the TRUE POINT OF BEGINNING.

Thence along the cul-de-sac right-of-way line for Ramsey Road the following course:

Thence along a curve to the left having a radius of 60.00 feet and an arc length of 41.94 feet, being subtended by a chord of South 50 degrees 45 minutes 24 seconds West for a distance of 41.09 feet to a 1/2" rebar pin found;

Thence leaving said Ramsey Road the following courses:

Thence North 65 degrees 37 minutes 15 seconds West for a distance of 180.19 feet to a 1/2" rebar pin found; Thence North 26 degrees 30 minutes 25 seconds West for a distance of 171.11 feet to a 1/2" rebar pin found; Thence North 12 degrees 49 minutes 46 seconds East for a distance of 68.08 feet to a 1/2" rebar pin found; Thence North 21 degrees 07 minutes 02 seconds West for a distance of 168.51 feet to a 1/2" rebar pin found; Thence North 31 degrees 11 minutes 56 seconds West for a distance of 88.56 feet to a 1/2" rebar pin found on the boundary line of the U.S. Government Buford Reservoir, Lake Sidney Lanier;

Thence following the boundary line of the U.S. Government Buford Reservoir, Lake Sidney Lanier the following courses:

Thence North 58 degrees 48 minutes 00 seconds East for a distance of 111.97 feet to a concrete monument found at Government corner #110-27; Thence South 32 degrees 43 minutes 20 seconds East for a distance of 96.77 feet to an angle iron found at Government corner #110-26; Thence North 58 degrees 52 minutes 08 seconds East for a distance of 248.40 feet to an angle iron found at Government corner #110-25; Thence South 32 degrees 37 minutes 31 seconds East for a distance of 348.14 feet to a an angle iron found at Government corner #110-24;

Thence leaving the boundary line of the U.S. Government Buford Reservoir, Lake Sidney Lanier the following courses:

Thence South 32 degrees 37 minutes 31 seconds East for a distance of 137.19 feet to a 1/2" rebar pin found; Thence South 55 degrees 53 minutes 34 seconds West for a distance of 319.81 feet to a 1/2" rebar pin found; Thence South 19 degrees 13 minutes 26 seconds East for a distance of 18.82 feet to a point and said point being the POINT OF BEGINNING.

Said property contains 5.048 acres more or less.



## **ORDINANCE NO. 2018-03**

### **SECTION II.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

### **SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

### **SECTION IV.**

This Ordinance is enacted as an amendment to the Code of the City of Gainesville, Georgia, and is to be codified as a part of Section 9-1-1-5.

### **SECTION V.**

The effective date of this Ordinance shall be upon approval by the governing authority of the City of Gainesville, Georgia.

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**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

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**Denise O. Jordan, City Clerk**

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 1/22/2018

**Presenter:** Danny Dunagan

**Item of Business:** **Second Reading: Ordinance No. 2018-04**  
**Rezone 1.13± acres at 1351 Park Hill Drive**

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY CHANGING THE ZONING ON A 1.13± ACRES TRACT LOCATED ON THE NORTHWEST SIDE OF THE INTERSECTION OF PARK HILL DRIVE AND SOUTH ENOTA DRIVE (A/K/A 1351 PARK HILL DRIVE) FROM RESIDENTIAL-II (R-II) TO OFFICE AND INSTITUTIONAL, WITH CONDITIONS (O-I-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

*The purpose of this request is to hold second reading on Ordinance 2018-04. First reading was held on 2/6/18.*

The applicant is proposing to rezone the subject property in order to construct a 10,800 square foot medical office building. The property is located within the Limestone Corridor Overlay Zone and contains an older single-family home that will be demolished. The anticipated hours for each of the two medical office tenants are from 8 A.M. to 5 P.M. According to the concept plan there will be a total of 47 parking spaces and a right turn in/out driveway is proposed on Park Hill Drive and South Enota Drive. Adjacent uses include the Burnam Wood subdivision, Beehive Homes Assisted Living facility, CVS Pharmacy and single-family homes.

**History/Background:**

**Facts & Issues for Consideration:**

**Department Recommendation:**

To hold second reading on Ordinance No. 2018-04.

**Department Director:**

Rusty Ligon

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                                                                                                               | Type      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|  2nd Reading: Ord. 2018-04 Altus Development, LLC - 1351 Park Hill Drive | Ordinance |



**AN ORDINANCE**

**No. 2018-04**

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY CHANGING THE ZONING ON A 1.13± ACRES TRACT LOCATED ON THE NORTHWEST SIDE OF THE INTERSECTION OF PARK HILL DRIVE AND SOUTH ENOTA DRIVE (A/K/A 1351 PARK HILL DRIVE) FROM RESIDENTIAL-II (R-II) TO OFFICE AND INSTITUTIONAL, WITH CONDITIONS (O-I-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**(Amendment to Zoning Map)**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

That from and after the passage of this Ordinance the following described lands shall be zoned and so designated on the Zoning Map of the City of Gainesville as **Office and Institutional, with conditions (O-I-c)**:

**Conditions**

- 1. The exterior materials of the building shall adhere to the standards as depicted on the architectural elevation provided with this rezoning application. All flat roof surfaces and roof top equipment shall be screened by a parapet roof on all sides.**
- 2. The westerly side of the property shall be planted with a dense evergreen buffer along the property line. The location, spacing, size and type of vegetation and trees planted shall be subject to Community Development Department Director approval. In addition, a decorative eight foot (8') tall opaque fence shall be provided between the planted buffer and the building / parking area / dumpster but shall not extend to Park Hill Drive beyond the proposed dumpster pad.**
- 3. All access point design and sidewalk installation along Park Hill Drive and South Enota Drive must be reviewed and approved by the Georgia Department of Transportation in conjunction with the Gainesville Public Works Director. All required access / traffic / sidewalk improvements associated with the proposed development shall be at the full expense of the developer / property owner.**
- 4. An updated as-built boundary survey / plat of the subject property, indicating all improvements required for the proposed use, shall be recorded prior to obtaining a Certificate of Occupancy.**

## **ORDINANCE NO. 2018-04**

### **Legal Description**

All that tract or parcel of land lying and being in Land Lot 139, 9th Land District, City of Gainesville, Hall County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for Altus Development, LLC, dated December 6th, 2017 and being more particularly described as follows:

Commencing at a PK Nail set at the centerline intersection of South Enota Drive (50' wide right-of-way) and Park Hill Drive (various width right-of-way), located at Georgia State Plane Coordinate Northing 1571602.31, Easting 2401617.61, Georgia West Zone, North American Datum of 1983/2007 adjustment, THENCE North 89 degrees 09 minutes 55 seconds West for a distance of 41.96 feet to a PK Nail set at the intersection of the Westerly right-of-way line of said South Enota Drive with the Northerly right-of-way line of said Park Hill Drive, and said point being the TRUE POINT OF BEGINNING.

Thence leaving said South Enota Drive and following along said Park Hill Drive the following course:

Thence South 32 degrees 39 minutes 33 seconds West for a distance of 230.00 feet to a 1/2" rebar pin set;

Thence leaving said Park Hill Drive the following courses:

Thence North 31 degrees 42 minutes 27 seconds West for a distance of 287.80 feet to a 1/2" rebar pin found; Thence North 54 degrees 49 minutes 33 seconds East for a distance of 195.59 feet to a 1/2" rebar pin and cap found stamped "DES" on the Westerly right-of-way line of said South Enota Drive;

Thence following said South Enota Drive the following course:

Thence South 35 degrees 10 minutes 27 seconds East for a distance of 200.50 feet to a point and said point being the POINT OF BEGINNING;

Said property contains 1.13 acres more or less.

### **SECTION II.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

### **SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**ORDINANCE NO. 2018-04**

**SECTION IV.**

This Ordinance is enacted as an amendment to the Code of the City of Gainesville, Georgia, and is to be codified as a part of Section 9-1-1-5.

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the governing body of the City of Gainesville, Georgia.

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**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

---

**Denise O. Jordan, City Clerk**



# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 1/22/2018

**Presenter:** Danny Dunagan

**Item of Business:** **Second Reading: Ordinance No. 2018-05**  
**Amend Planned Unit Development at 1209 and 1229 Hillside Gardens Lane**  
AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY AMENDING THE EXISTING PLANNED UNIT DEVELOPMENT, WITH CONDITIONS (P-U-D-c) ZONING ON A 2.98± ACRES TRACT LOCATED ON THE NORTHEAST SIDE THE INTERSECTION OF MCEVER ROAD AND HILLSIDE GARDENS LANE (A/K/A 1209 AND 1229 HILLSIDE GARDENS LANE); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

*The purpose of this request is to hold second reading on Ordinance 2018-05. First reading was held on 2/6/18.*

The applicant is proposing to amend the existing Planned Unit Development (P-U-D) zoning to allow for boat sales dealership. The entire tract consists of two parcels originally annexed in 2004 with PUD zoning for office, warehousing and light retail uses within an existing 12,000 square foot metal building. In addition, there were to be three, 5,000 square foot, two-story office/warehouse buildings and an additional 8,000 square foot warehouse building that were never constructed. The existing metal building has been occupied by multiple tenants including a construction company, recreational trailers sales facility, arts and gifts retail store and attorneys office. The applicant proposes to renovate and significantly upgrade the existing building with brick facade, windows and architectural treatments to create a first class sales facility. All boats will be serviced inside of the existing building and outdoor boat storage is proposed to the rear along Hillside Gardens Lane. Extensive landscaping is proposed along portions of Hillside Gardens Lane and McEver Road to screen the boat storage and display areas. Access will remain the same which includes two driveways on Hillside Gardens Lane. Adjacent uses include Gainesville Exploration Academy, Hall County Recycling Center, Hillside Memorial Gardens Cemetery, Hillside Chapel Funeral Home and Life South Community Blood Center.

**History/Background:**

**Facts & Issues for Consideration:**

**Department Recommendation:**

To hold second reading on Ordinance 2018-05.

**Department Director:**

Rusty Ligon

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

|   | Description                                                                    | Type      |
|---|--------------------------------------------------------------------------------|-----------|
| ▣ | 2nd Reading: Ordinance No. 2018-05 Tyler Land Holdings - Hillside Gardens Lane | Ordinance |

First Reading: 02/06/2018  
Passed: \_\_\_\_\_

**AN ORDINANCE**

**No. 2018-05**

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY AMENDING THE EXISTING PLANNED UNIT DEVELOPMENT, WITH CONDITIONS (P-U-D-c) ZONING ON A 2.98± ACRES TRACT LOCATED ON THE NORTHEAST SIDE THE INTERSECTION OF MCEVER ROAD AND HILLSIDE GARDENS LANE (A/K/A 1209 AND 1229 HILLSIDE GARDENS LANE); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**(Amendment to the Zoning Map)**

**BE IT HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF GAINESVILLE, GEORGIA AS FOLLOWS:**

**SECTION I.**

That from and after the passage of this Ordinance, the subject property containing 2.98± acres with **Planned Unit Development, with conditions (P-U-D-c)** zoning is hereby amended as follows:

**Conditions**

- 1. The proposal shall be generally consistent with the building and site development standards provided with this application.**
- 2. The proposed use shall be limited to the proposed boat sales and service use, as well as professional office uses.**
- 3. The outdoor storage areas shall be limited to storage of boats only. The storage areas must consist of asphalt, concrete or an impervious material acceptable to the Gainesville Department of Water Resources Director.**
- 4. The proposed landscaping along McEver Road and Hillside Gardens Lane shall be a minimum of 15 feet in width and shall screen all proposed boat storage areas and above ground storm water detention areas. The location, spacing, size and type of vegetation and trees planted shall be subject to Community Development Department Director approval.**
- 5. A decorative wrought iron fence not to exceed eight feet (8') in height shall be installed along the perimeter of the property between the storage and parking areas and the vegetated buffer.**
- 6. All required access / traffic / sidewalk improvements associated with the proposed development shall be at the full expense of the developer / property owner.**



## ORDINANCE NO. 2018-05

- 7. All building and property improvements as identified in the applicant's concept plan and the aforementioned zoning conditions shall be completed by December 31, 2018. Upon the completion of all improvements, an updated as-built boundary survey/plot of the subject property shall be recorded.**

### **Legal Description**

All that tract or parcel of land lying and being in Land Lot 6, 8th Land District, Hall County, Georgia and being more particularly described as follows:

Beginning at the Southerly mitered right-of-way corner located at the Northeast corner of the intersection of Hillside Gardens Lane and McEver Road as shown on the deed for right-of-way as recorded in Deed Book 4161, Pages 70-74, Hall;

Thence following the Easterly right-of-way line of said McEver Road the following courses:

Thence North 47 degrees 47 minutes 35 seconds West for a distance of 36.10 feet to a point;  
Thence North 07 degrees 43 minutes 45 seconds West for a distance of 85.65 feet to a point;

Thence leaving McEver Road the following courses:

Thence North 61 degrees 20 minutes 11 seconds East for a distance of 821.10 feet to a point;  
Thence South 25 degrees 26 minutes 51 seconds East for a distance of 168.35 feet to a point on the Northerly right-of-way line of Hillside Garden Lane;

Thence following Hillside Garden Lane the following courses:

Thence South 68 degrees 21 minutes 27 seconds West for a distance of 42.66 feet to a point;  
Thence South 60 degrees 27 minutes 00 seconds West for a distance of 92.74 feet to a point;  
Thence South 58 degrees 08 minutes 00 seconds West for a distance of 197.30 feet to a point;  
Thence South 64 degrees 25 minutes 47 seconds West for a distance of 85.75 feet to a point;  
Thence South 69 degrees 55 minutes 00 seconds West for a distance of 47.08 feet to a point;  
Thence South 69 degrees 55 minutes 00 seconds West for a distance of 74.63 feet to a point;  
Thence South 66 degrees 00 minutes 10 seconds West for a distance of 177.81 feet to a point;  
Thence North 26 degrees 22 minutes 58 seconds West for a distance of 20.00 feet to a point;  
Thence South 63 degrees 18 minutes 29 seconds West for a distance of 116.04 feet to a point and said point being the POINT OF BEGINNING.

Said property contains 2.98 acres more or less.

### **SECTION II.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

### **SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**ORDINANCE NO. 2018-05**

**SECTION IV.**

This Ordinance is enacted as an amendment to the Code of the City of Gainesville, Georgia, and is to be codified as a part of Section 9-1-1-5 thereof.

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the governing authority of the City of Gainesville, Georgia.

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**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

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**Denise O. Jordan, City Clerk**

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 1/22/2018

**Presenter:** Danny Dunagan

**Item of Business:** **Second Reading: Ordinance No. 2018-06**  
**Amend Unified Land Development Code as it Pertains to Meetings and Action by the Governing Body**

AN ORDINANCE TO TO AMEND SECTION 9-21-1-7 OF THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA ENTITLED "MEETINGS" AND TO AMEND SECTION 9-22-2-18 OF THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA ENTITLED "ACTION BY GOVERNING BODY" BY ELIMINATING SAID SECTIONS IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

*The purpose of this request is to hold second reading on Ordinance 2018-06. First reading was held on 2/6/18.*

The City of Gainesville is proposing to amend Section 9-21-1-7 of the Unified Land Development Code to give the authority to the Community Development Department Director to approve the Planning and Appeals Board meeting calendar. In addition, an amendment to Section 9-22-2-18 is proposed to remove the requirement of a second reading by the Governing Body for zoning actions.

**History/Background:**

**Facts & Issues for Consideration:**

**Department Recommendation:**

To hold second reading on Ordinance 2018-06.

**Department Director:**

Rusty Ligon

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**If funding is involved, are funds approved within the current budget?**

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**



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**ATTACHMENTS:**

| Description                                                                                                                                        | Type      |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|  2nd Reading Ord 2018-06 ULDC Amendment - Calendar & 2nd Readings | Ordinance |

**AN ORDINANCE**

**No. 2018-06**

**AN ORDINANCE TO AMEND SECTION 9-21-1-7 OF THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA ENTITLED “MEETINGS” AND TO AMEND SECTION 9-22-2-18 OF THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA ENTITLED “ACTION BY GOVERNING BODY” BY ELIMINATING SAID SECTIONS IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

Section 9-21-1-7 of the Unified Land Development Code of the City of Gainesville, Georgia is hereby amended to read as follows:

**Section 9-21-1-7. Meetings.**

The Planning and Appeals Board shall meet each month in accordance with the schedule of meeting dates and times approved by the Community Development Department Director. Other meetings of the Planning and Appeals Board shall be held at the call of the Director if there is business to be brought before it, or at such other times as the Planning and Appeals Board may determine. All meetings of the Planning and Appeals Board shall be open to the public.

**SECTION II.**

Section 9-22-2-18 of the Unified Land Development Code of the City of Gainesville, Georgia is hereby amended to read as follows:

**Section 9-22-2-18. Action by Governing Body.**

No action shall be taken on a rezoning or special use application by the governing body until it has received a recommendation by the Planning and Appeals Board, or upon the expiration of the sixty-five (65) day review period of the Planning and Appeals Board. In rendering a decision on a rezoning or special use application, the governing body shall consider all information supplied by the applicant, the Director, and the Planning and Appeals Board, any information presented at the public hearing of the Planning and Appeals Board, and information gained at its own public hearing.

After conducting a public hearing, in taking action on an application, the governing body may:

- (a) Approve the application as submitted by ordinance.
- (b) Approve the application with conditions.

## **ORDINANCE NO. 2018-06**

- (c) Deny the proposal.
- (d) Table the proposal for consideration at its next scheduled meeting.
- (e) Refer the application back to the Planning and Appeals Board for further consideration, with notice of public hearings before the Planning and Appeals Board and governing body, the same as required for the initial application.
- (f) Refer the application back to the Planning and Appeals Board for further consideration, without the requirement to hold a public hearing and provide notice thereof.

### **SECTION III.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

### **SECTION IV.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid and unconstitutional.

### **SECTION V.**

The effective date of this Ordinance shall be upon final approval by the governing body of the City of Gainesville, Georgia.

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**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

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**Denise O. Jordan, City Clerk**



# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 2/16/2018

**Presenter:** Abb Hayes

**Item of Business:** BR-2018-14 Authorization to Execute Intergovernmental Agreement By and Between the City of Gainesville and Gainesville Redevelopment Authority for Real Property Off of Green Street

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

The purpose this request is to transfer a 2.09 acre tract of land to the Redevelopment Authority for disposition as stipulated within the intergovernmental agreement.

**History/Background:**

**Facts & Issues for Consideration:**

Proceeds from the disposition of this property will be used for redevelopment purposes as defined in O.C.G.A. 36-44-3(5).

**Department Recommendation:**

Adopt the resolution as presented.

**Department Director:**

Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**

N/A

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                                           | Type                   |
|---------------------------------------------------------------------------------------|------------------------|
| <input type="checkbox"/> BR-2018-14 Transfer 2.09 Acres off of Green Street           | Resolution             |
| <input type="checkbox"/> IGA with Redevelopment Authority and Exhibit A and Exhibit B | Contract/Agreement/MOU |

**RESOLUTION BR-2018-14**

**AUTHORIZATION TO EXECUTE INTERGOVERNMENTAL AGREEMENT BY AND  
BETWEEN THE CITY OF GAINESVILLE AND GAINESVILLE REDEVELOPMENT  
AUTHORITY FOR REAL PROPERTY OFF OF GREEN STREET**

**WHEREAS**, Gainesville owns real property located off of Green Street in the City of Gainesville, which real property is more particularly described as that 2.09 acre tract of land shown in Exhibit "A," attached hereto and incorporated herein, less and except that tract of land described in Exhibit "B," attached hereto and incorporated herein (said real property hereinafter called "the Green Street Property"); and

**WHEREAS**, Gainesville finds the Green Street Property to be excess property suitable for redevelopment; and

**WHEREAS**, pursuant to O.C.G.A. § 36-44-5(a)(8), Gainesville has the power to dispose of the Green Street Property for redevelopment purposes, in cooperation with the Authority; and

**WHEREAS**, pursuant to O.C.G.A. § 36-44-5(a)(8), the Authority has the power to dispose of the Green Street Property for redevelopment purposes and such disposition may be by public or private sale; and

**WHEREAS**, Gainesville and the Authority desire to enter into an Intergovernmental Agreement, attached hereto and incorporated herein, to provide for the conveyance of the Green Street Property from Gainesville to the Authority, and to enable the Authority to dispose of the Green Street Property, with the proceeds to be used for redevelopment, as defined in O.C.G.A. § 36-44-3(5).

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City of Gainesville hereby authorizes the Mayor, City Manager and/or City Attorney to execute the Intergovernmental Agreement by and between City of Gainesville, Georgia and Gainesville Redevelopment Authority for the Green Street Property and any other documents necessary to effectuate the provisions of the IGA and the transfer of the property.

**Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2018.**

\_\_\_\_\_  
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

\_\_\_\_\_  
**Denise O. Jordan, City Clerk**

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN  
CITY OF GAINESVILLE, GEORGIA AND GAINESVILLE REDEVELOPMENT  
AUTHORITY FOR REAL PROPERTY OFF OF GREEN STREET**

This Agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Gainesville, Georgia, (hereinafter called "Gainesville") and the Gainesville Redevelopment Authority (hereinafter called "the Authority") for the purpose of conveyance, marketing, and sale of real property located off of Green Street in the City of Gainesville, and for use of the proceeds of the same.

**WHEREAS**, Gainesville owns real property located off of Green Street in the City of Gainesville, which real property is more particularly described as that 2.09 acre tract of land shown in Exhibit "A," attached hereto and incorporated herein, less and except that tract of land described in Exhibit "B," attached hereto and incorporated herein (said real property hereinafter called "the Green Street Property");

**WHEREAS**, Gainesville finds the Green Street Property to be excess property suitable for redevelopment;

**WHEREAS**, pursuant to O.C.G.A. § 36-44-5(a)(8), Gainesville has the power to dispose of the Green Street Property for redevelopment purposes, in cooperation with the Authority;

**WHEREAS**, pursuant to O.C.G.A. § 36-44-5(a) (8), the Authority has the power to dispose of the Green Street Property for redevelopment purposes and such disposition may be by public or private sale; and

**WHEREAS**, Gainesville and the Authority desire to enter into an agreement to provide for the conveyance of the Green Street Property from Gainesville to the Authority, and to enable the Authority to dispose of the Green Street Property, with the proceeds to be used for redevelopment, as defined in O.C.G.A. § 36-44-3(5).

**NOW THEREFORE**, Gainesville and the Authority agree to the following:

- A. Within thirty (30) days of the execution of this Agreement by both Gainesville and the Authority, Gainesville shall execute and record, at its cost and expense, such documents as are necessary to convey the Green Street Property to the Authority.
- B. Within thirty (30) days after conveyance of the Green Street Property by Gainesville to the Authority, the Authority shall market the Green Street Property for sale, with or without the assistance of a licensed realtor, with the sales price to be no less than \$200,000.00, net of any realtor commissions. The Authority agrees that it shall not sell the Green Street Property for less than \$200,000.00, net of any real estate commissions, without approval by the governing body of Gainesville. The Authority may form a committee with full power of the Authority to enter into contracts for listing the Green Street Property, and for contracts for purchase and sale of the Green Street Property.
- C. Gainesville will hold harmless, defend and indemnify the Authority and each member and officer thereof from and against any liability or cost whatsoever arising from execution of this Agreement, any realtor agreement, any purchase agreement, or any



conveyance of the Green Street Property. Gainesville will execute any other documents which may become reasonably necessary to effectuate the transactions contemplated hereby, including but not limited to the conveyance of the Green Street Property from the Authority to any transferee.

- D. Upon the sale of the Green Street Property, the net proceeds of such sale, after deduction of reasonable and customary closing costs and any reasonable costs and expenses incurred by the Authority in connection therewith, shall be paid to Gainesville, with such sales proceeds to be earmarked for and used for redevelopment within the city limits of Gainesville, as defined in O.C.G.A. § 36-44-3(5).
- E. In the event that a closing has not occurred conveying the Green Street Property on or before December 31, 2018, then the Authority agrees to convey the Green Street Property to Gainesville, without further action on the part of the Authority or of Gainesville, at which time Gainesville may take such action regarding the Green Street Property as Gainesville deems prudent.
- F. All notices under this Agreement shall be in writing and shall be deemed to have been given by delivering it to person or by certified mail:

As to the Authority:

Gainesville Redevelopment Authority  
Attn: Chairperson  
405 Washington St., NE  
Gainesville, GA 30501

As to Gainesville

City of Gainesville  
Attn: City Manager  
300 Henry Ward Way  
Suite 303  
Gainesville, GA 30501

- G. The failure of any party to exercise any right given hereunder or to insist upon strict compliance with any term, condition or covenant specified herein shall not constitute a waiver of such party's right to exercise such right or to demand strict compliance with any such term, condition or covenant under this Agreement.
- H. This Agreement contains the sole and entire agreement of the parties with respect to the subject matter contemplated hereunder and no representation, inducement, promise or agreement, parole or written, between the parties and not incorporated herein shall be of any force of effect. Any amendment to this Agreement shall be in writing and executed by the parties.
- I. This Agreement may not be assigned or transferred by either party without the written consent of the other party. The provisions of this Agreement shall inure to the benefit or and be binding upon the parties hereto and the respective success and assigns.

- J. Time is of the essence with respect to this Agreement.
- K. This Agreement and all amendments hereto shall be governed and construed under the laws of the State of Georgia.
- L. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, such provision, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall be deemed severable, and the remainder hereof shall not be affected thereby, and each term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- M. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

IN WITNESS THEREOF, the parties have set their hand and seal as of the day and year first above written.

**GAINESVILLE REDEVELOPMENT AUTHORITY**

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

ATTEST: \_\_\_\_\_  
Secretary

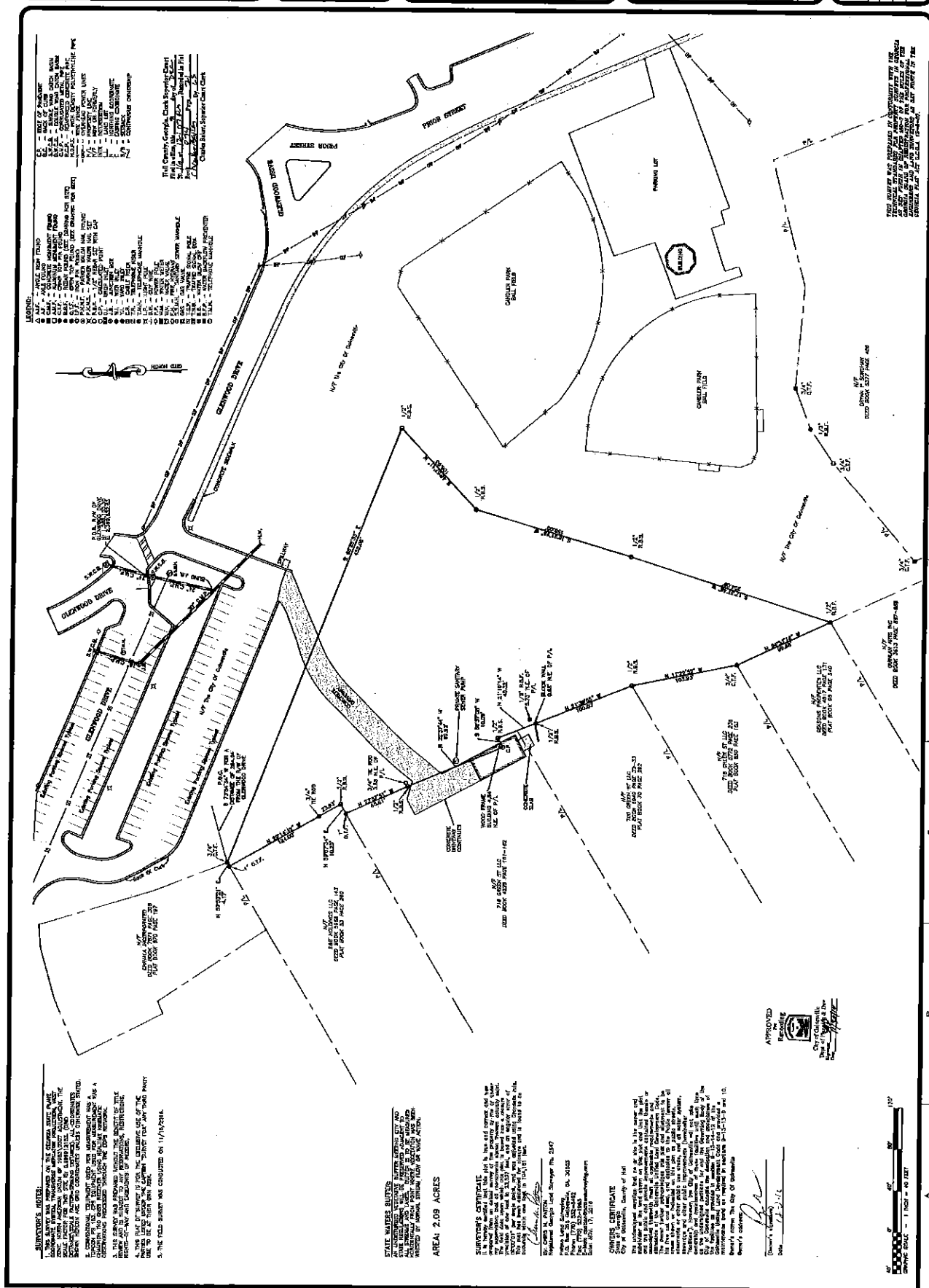
**CITY OF GAINESVILLE**

By: \_\_\_\_\_  
C. Danny Dunagan, Jr., Mayor

ATTEST: \_\_\_\_\_  
Denise O. Jordan, City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Abbott S. Hayes, Jr.  
Hulsey, Oliver & Mahar, LLP  
City of Gainesville Attorney  
ASH/lcg/15100/11401/W206706





**LEGAL DESCRIPTION  
ENCROACHMENT TRACT**

All that tract or parcel of land lying and being in Land Lot 147 of the 9th District, City of Gainesville, Georgia and being more particularly described as follows:

**COMMENCING** at the centerline intersection of U.S. 129, also known as Green Street, and Ridgewood Avenue; thence North 1°51'12" West a distance of 109.41 feet to a point on the easterly right of way of Green Street; thence along the common property line of now or formerly 718 Green Street, LLC and now or formerly 700 Green Street, LLC North 62°32'54" West a distance of 399.50 feet to 5/8" rebar being the **TRUE POINT OF BEGINNING**; thence along the property of now or formerly City of Gainesville North 17°11'55" West a distance of 20.22 feet to a 1/2" rebar stamped Patton RLS2607; thence South 62°34'27" West a distance of 10.09 feet to a point; thence North 18°41'09" West a distance of 63.54 feet to a point; thence running through the property of now or formerly City of Gainesville (Candler Street Park) North 40°23'24" East a distance of 12.22 feet to a point; thence South 23°58'02" East a distance of 109.32 feet to a point; thence South 72°43'49" West a distance of 11.60 feet to a 1/2" rebar found stamped Patton RLS2607; thence North 17°16'11" West a distance of 20.08 feet to the **TRUE POINT OF BEGINNING**.

Said parcel contains 0.029 AC or 1,279 S.F.

**EXHIBIT B**

# CITY OF GAINESVILLE

## COUNCIL AGENDA REQUEST

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**Date Submitted:** 2/16/2018

**Presenter:** Abb Hayes

**Item of Business:** BR-2018-15 Authorization to Execute Intergovernmental Agreement By and Between the City of Gainesville and Gainesville Redevelopment Authority Regarding Sale of Real Property to 330 Main Street, LLC

**Meeting Date:** 2/20/2018

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**Purpose of Request:**

The purpose this request is to address issues relating to the construction of new levels on the Main Street parking deck and the contract between the City and 330 Main St, LLC.

**History/Background:**

**Facts & Issues for Consideration:**

**Department Recommendation:**

Adopt the resolution as presented.

**Department Director:**

Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**

N/A

**Amount Requested:**

**Source of Funds:**

**Finance Comments:**

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**Administrative Comments:**

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**ATTACHMENTS:**

| Description                                                                                                | Type                   |
|------------------------------------------------------------------------------------------------------------|------------------------|
| <input type="checkbox"/> BR-2018-15 Transfer 1.025 Acres off of Main Street to the Redevelopment Authority | Resolution             |
| <input type="checkbox"/> BR-2018-15 IGA with Exhibit A                                                     | Contract/Agreement/MOU |
| <input type="checkbox"/> BR-2018-15 IGA Exhibit B                                                          | Contract/Agreement/MOU |
| <input type="checkbox"/> BR-2018-15 IGA Exhibit C                                                          | Attachments/Exhibits   |

- BR-2018-15 IGA Exhibit D
- BR-2018-15 IGA Exhibit E

Attachments/Exhibits  
Attachments/Exhibits

**RESOLUTION BR-2018-15**

**AUTHORIZATION TO EXECUTE INTERGOVERNMENTAL AGREEMENT AND BY AND  
BETWEEN THE CITY OF GAINESVILLE AND GAINESVILLE REDEVELOPMENT  
AUTHORITY REGARDING SALE OF REAL PROPERTY TO 330 MAIN ST, LLC**

**WHEREAS**, Gainesville owns real property located on Jesse Jewell Parkway in the City of Gainesville, which real property is more particularly described as that 1.025 acre tract of land shown in Exhibit "A-2," to the Real Estate Sale and Development Agreement between Gainesville and Carroll Daniel Construction Co. dated November 21, 2017 (said real property hereinafter called "the Property"); and

**WHEREAS**, Carroll Daniel Construction Co. has assigned its rights under the Real Estate Sale and Development Agreement dated November 21, 2017 to 330 Main St, LLC; and

**WHEREAS**, Section 1F of Article II of the Real Estate Sale and Development Agreement dated November 21, 2017, requires that the reservation of parking spaces referred to in said Agreement be accomplished pursuant to agreement with the Gainesville Redevelopment Authority; and

**WHEREAS**, pursuant to O.C.G.A. § 36-44-5(a)(8), Gainesville has the power to dispose of interests in the Property for redevelopment purposes, in cooperation with the Authority; and

**WHEREAS**, pursuant to O.C.G.A. § 36-44-5(a)(8), the Authority has the power to dispose of interests in the Property for redevelopment purposes; and

**WHEREAS**, Gainesville and the Authority desire to enter into an Intergovernmental Agreement, attached hereto and incorporated herein, to provide for the conveyance of interests in the Property between Gainesville, the Authority, and 330 Main St, LLC, with the proceeds to be used for redevelopment, as defined in O.C.G.A. § 36-44-3(5).

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City of Gainesville hereby authorizes the Mayor, City Manager and/or City Attorney to execute the Intergovernmental Agreement by and between City of Gainesville, Georgia and Gainesville Redevelopment Authority relating to interests in the Property, and any other documents necessary to effectuate the provisions of the Intergovernmental Agreement and the transfer of interests in the Property.

**Adopted this \_\_\_\_ day of \_\_\_\_\_, 2018.**

\_\_\_\_\_  
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

\_\_\_\_\_  
**Denise O. Jordan, City Clerk**



## **INTERGOVERNMENTAL AGREEMENT**

**THIS AGREEMENT** is made as of the 23<sup>rd</sup> day of February, 2018 (hereinafter this “Agreement”), by and between the **CITY OF GAINESVILLE, GEORGIA** (the “City”) and the **GAINESVILLE REDEVELOPMENT AUTHORITY** (the “Authority”).

**WHEREAS**, the City has agreed to convey to 330 Main St, LLC (the “Developer”) that certain property, more particularly described on Exhibit “A” hereto (the “Property”), pursuant to that certain Real Estate Sale and Development Agreement (the “Sale Agreement”), dated November 21, 2017, between the City and the Developer (by assignment);

**WHEREAS**, the City and the Developer have provided in the Sale Agreement for the development of a commercial office building to be located on the Property (the “Office Building”);

**WHEREAS**, The City has agreed to pay for the expansion of its downtown parking deck located on Main Street near the Property (the “Parking Deck”) and to provide the Developer in the future with designated parking spaces which are necessary for operation of the Office Building;

**WHEREAS**, the Sale Agreement contemplates that the Developer and the Authority shall enter into a parking development agreement (the “Parking Development Agreement”) to more definitively set forth the City’s and the Developer’s rights and obligations regarding the future expansion of the Parking Deck and provision of parking spaces for the operation of the Office Building as expressed therein;

**WHEREAS**, contemporaneously with the execution of the Parking Development Agreement, the City and the Authority intend to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

## ARTICLE I.

### **PARKING ACCESS**

**Section 1.1    Expansion of the Parking Deck.** The City agrees that it shall expand the Parking Deck by constructing an additional two levels on the Parking Deck substantially in accordance with the plans and specifications attached hereto as Exhibit “B.” The construction costs of the additional levels shall be the sole responsibility of the City, including the utilization of such TAD increment generated by the Developer’s construction as approved by the TAD Advisory Committee and the City. Construction of the additional two levels shall be completed within five years of the closing date of the sale of the Property by the City to the Developer (the “Closing Date”).

**Section 1.2    First Phase Parking.** The City agrees that within 30 days of the issuance of a certificate of occupancy for the additional two levels on the Parking Deck or the expiration of three (3) years from the Closing Date, whichever occurs first, it shall execute and deliver to the Developer an easement, substantially in the form attached hereto as Exhibit “C,” for 30 contiguous spaces on one of the two new levels of the Parking Deck (the “First Phase Easement”). The First Phase Easement shall be appurtenant to the Property.

**Section 1.3    Alternate First Phase Parking.** In the event that the additional two levels of the Parking Deck are not completed within three (3) years from the Closing Date, the City agrees that it shall execute and deliver to the Developer within three (3) years from the Closing Date a license for the use of 30 parking spaces located within the Central Business District of the City described on Exhibit “C” of the Sale Agreement, said license to be substantially in the form attached hereto as Exhibit “D” (the “License”). Within 30 days of issuance of a certificate of occupancy for the two additional levels of the Parking Deck, the City shall execute and deliver to the Developer the First Phase Easement pursuant to the terms of Section 1.2. The License, if issued, shall provide that it will expire on the date the First Phase Easement is executed and delivered.

**Section 1.4 Second Phase Parking.** The City agrees that within five years of the Closing Date the City shall execute and deliver to the Developer an easement, substantially in the form attached hereto as Exhibit “E”(the “Second Phase Easement”), for an additional 54 contiguous spaces on the level of the Parking Deck containing the 30 spaces described in the First Phase Easement, which 54 additional spaces shall be contiguous to such 30 spaces. The Second Phase Easement shall be appurtenant to the Property.

**Section 1.5. Title.** The City agrees that it shall convey Developer “good and marketable title” to the First Phase Easement and the Second Phase Easement (the “Easements”), subject only to the following exceptions (herein referred to as the “Permitted Exceptions”): (i) general utility, sewage, and drainage easements affecting the Easement which do not materially interfere with the Developer’s use of the Easements; and (ii) any other matters of title approved by Developer.

## **ARTICLES II.**

### **REPRESENTATIONS AND WARRANTIES**

**Section 2.1 Representation and Warranties by the City.** The City makes the following representations and warranties:

(a) Organization and Authority. The City is a public body corporate and politic, created and validly existing pursuant to the Constitution and laws of the State of Georgia. The City has the power to execute and deliver this Agreement, to enter into the transactions contemplated hereby and to perform and observe its obligations contained herein in accordance with the terms thereof. The City is not in default under the laws of the State of Georgia or under the provisions of any agreement to which it is a party or by which it may be bound. By proper action, the City has duly authorized the execution and delivery of this Agreement.

(b) Agreements are Legal and Authorized. The City is not subject to any statutory or contractual limitation or provisions of any nature whatsoever which in any way limits, restricts or prevents the City from entering into or performing any of its obligations thereunder, except to the extent that such performance may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors’ rights.

(c) No Defaults. No event has occurred and no condition exists with respect to the City which would constitute an event of default hereunder, under any other collateral documents of which, with the lapse of time or with the giving of notice or both, would become an event of default hereunder or under any collateral documents.

(d) Enforceability. This Agreement is a legal, valid and binding obligation of the City enforceable in accordance with its terms, except to the extent the enforceability hereof may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity, and (ii) bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights heretofore or hereinafter enacted to the extent constitutionally applicable.

**Section 2.2 Representation and Warranties by the Authority.** The Authority makes the following representations and warranties:

(a) Corporate Organization and Power. The Authority is a public body corporate and politic, created and validly existing under the laws of the State of Georgia, has the power to enter into this Agreement and to perform and observe its obligations contained herein in accordance with the terms hereof, and has, by proper corporate action, been duly authorized to execute, deliver and perform this Agreement in accordance with the terms hereof.

(b) Pending Litigation. There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the Authority threatened, against or affecting the Authority in any court or before any governmental authority or arbitration board of tribunal which is reasonably anticipated to materially and adversely affect the transactions contemplated by this Agreement.

(c) Agreements Are Valid and Authorized. The execution and delivery by the Authority of this Agreement and the compliance by the Authority with all of the provisions hereof and thereof and the consummation of the transactions contemplated hereby and thereby (A)(i) are within the corporate power of the Authority, (ii) will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under its creation legislation, or any commitment or agreement to which the Authority is a party or by which it



may be bound, or to which any of its properties may be subject, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Authority or any of its activities or properties, and (iii) will not result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature (other than Permitted Exceptions) whatsoever upon any of the property or assets of the Authority under the terms of any instrument or agreement; and (B) have been duly authorized by all necessary action on the part of the Authority.

(d) No Default. No event has occurred and no conditions exists with respect to the Authority that would constitute an event of default, as defined herein, under this Agreement, or which, with the lapse of time or with the giving of notice or both, would become an event of default under this Agreement.

(e) Enforceability. This Agreement is a legal, valid and binding obligation of the Authority enforceable in accordance with its terms, except to the extent the enforceability hereof may be subject to (i) the exercise of judicial discretion in accordance with general principals of equity, and (ii) bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights heretofore or hereinafter enacted to the extent constitutionally applicable.

### **ARTICLE III.**

#### **LIMITATION OF LIABILITY OF THE AUTHORITY**

**Section 3.1 Limitation of Liability.** Notwithstanding anything to the contrary contained herein, the obligations of the Authority hereunder shall be limited obligations which shall be enforceable against the Authority solely through enforcement of performance of those obligations of the Developer under the Parking Development Agreement of even date herewith, between the Authority and the Developer. The Parking Development Agreement sets forth the covenants and obligations of the Authority and the Developer hereunder, and reference is hereby made to the Parking Development Agreement for a detailed statement of said covenants and obligations of the Developer thereunder; and the Authority agrees that the City in the name of the Authority may enforce all rights of the Authority and all obligations of the Developer under and pursuant to the Parking Development Agreement, whether or not the City is in default hereunder.

In addition, the obligations of the Authority under the Parking Development Agreement are intended to and shall be limited obligations of the Authority enforceable solely through enforcement of performance of those obligations of the City under this Agreement, but the Authority shall have no obligation to enforce any of its rights or any of the obligations of the City hereunder or any of the obligations of the Developer under the Parking Development Agreement. In the Parking Development Agreement the Authority has agreed that the Developer in the name of the Authority may enforce all rights of the Authority and all obligations of the City under this Agreement, whether or not the Developer is in default thereunder, and the City hereby consents to such grant of enforcement rights to the Developer by the Authority and the right of the Developer to perform the Authority's obligations to the City.

**Section 3.2.** The City shall indemnify, defend and hold the Authority harmless from and against all obligations of the City and of the Authority to the Developer hereunder and under the Parking Development Agreement.

#### **ARTICLE IV.**

##### **DEFAULT**

**Section 4.1.** If a party fails to fully perform any of the material terms or provisions of this Agreement, such failure shall constitute an event of default by such party under this Agreement.

**Section 4.2.** A defaulting party shall have thirty (30) days grace within which to cure or commence good faith cure of the above events of default from the date of notice from the other party that it intends to regard such violations as a default pursuant to this Agreement.

**Section 4.3.** In the event of any litigation regarding this Agreement arising between the City and the Authority, both parties do hereby mutually consent to the jurisdiction of the Superior Court of Hall County, Georgia and each party shall have the right to pursue any remedies available at law or in equity.

**Section 4.4.** The failure to enforce any breach of this Agreement by either party shall not constitute a waiver as to the right to require the performance of such defaulted obligation or

duty required of either party pursuant to this Agreement. It is acknowledged that every obligation or duty required of either party pursuant to this Agreement shall be considered a condition of performance both as to time and substance.

## **ARTICLE V.**

### **MISCELLANEOUS**

**Section 5.1. Notices.** Any notice permitted to be given pursuant to this Lease shall be in writing and delivered by United States mail, certified, postage prepaid, return receipt requested, or telecopier with receipt confirmed, or when sent by overnight express carrier (i.e. Federal Express, Purolator Courier, Express Mail) with a request that the addressee sign a receipt evidencing delivery, to the following persons at the indicated address:

To the Authority:      Gainesville Redevelopment Authority  
                                 Attention: Secretary  
                                 405 Washington Street, N.E.  
                                 Gainesville, Georgia 30501

with copy to:            330 Main St, LLC  
                                 Attention: Brian Daniel  
                                 Post Office Box 1438  
                                 921 Athens Street  
                                 Gainesville, Georgia 30501

To the City:              The City of Gainesville  
                                 Attention: City Manager  
                                 300 Henry Ward Way  
                                 Gainesville, Georgia 30501

Either party may, at any time, designate by written notice to the other party a change in the above address or address, but such change shall be binding upon the person to whom it is sent only from and after the date of receipt by such person.

**Section 5.2. Waiver.** No waiver of any default by either party hereunder will be implied from any omission by either party to take action on account of such default if such default persists or is repeated, and any express waiver will be operative only for the time and to the extent therein stated. A waiver by either party of any provision hereof will not be construed as a waiver of any subsequent breach of the same provision, nor will the consent or approval by

either party to or of any act by the other be deemed to waive or render unnecessary their consent or approval to or of any subsequent similar acts.

**Section 5.3. Estoppel Statements.** Each party will at any time and from time to time within fifteen (15) days after written request by the other, execute, acknowledge and delivery to the other, a written statement certifying that this Agreement is unmodified and in full force and effect if such is the fact (or, if there has been any modification thereof, stating the modification). Any such statement may be relied upon by any mortgagee or assignee of the Development.

**Section 5.4. Time.** Time is of the essence in this Agreement.

**Section 5.5. Governing Law.** This Agreement shall be subject to and governed according to the laws of the State of Georgia.

**Section 5.6. Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors, assigns or other legal representatives. Such successor in interest or assignee shall have all rights, powers and privileges conferred by this Agreement and shall be entitled to enforce the same according to the terms of this Agreement and law.

**Section 5.7. Severability.** If any portion or portions of this Agreement shall be for any reason invalid or unenforceable, the remaining portion(s) shall be valid and enforceable and carried into effect unless to do so would clearly violate the present legal and valid intention of the parties hereto.

**Section 5.8 Entire Agreement.** This Agreement (together with the Exhibits referred herein which are hereby incorporated herein by reference) contains the entire agreement between the City and the Authority relative to the parking needs of the Developer, and supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties. This Agreement shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless and until set forth in a written instrument authorized and executed with the same formality as this Agreement.



**Section 5.9. Title.** The titles contained in this Agreement are inserted only for convenience and are not to be construed as a part of this Agreement or as a limitation upon the scope of the particular provisions to which they refer.

**Section 5.10. Consent.** Except as otherwise specifically set forth herein, (i) whenever in this Agreement the City or the Authority is required to give its consent or approval, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (ii) if no written response to a request for consent or approval is provided within ten (10) business days from the receipt of the request, then the consent shall be presumed to have been given.

**Section 5.11. Scrivener of Agreement.** Should any provision of this Agreement require judicial interpretation, it is agreed that the Court or arbitral tribunal interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same. It being agreed that the agents of all parties have participated in the preparation hereof.

**Section 5.12. Execution Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 5.13. Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

**Section 5.14. Right to Information.** The City, the Authority and the Developer and their duly authorized agents and representatives will have the right of access to pertinent information relative to the parking needs of the Developer. Specifically, all such parties will have access to information regarding the costs, design, schedule, construction, maintenance and operation of the Parking Deck.

*(Signatures Appear on Following Page)*

**IN WITNESS WHEREOF**, City and Authority have executed this Agreement the day  
and year first above written.

**CITY OF GAINESVILLE, GEORGIA**

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

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Abbott S. Hayes, Jr. City Attorney

**GAINESVILLE REDEVELOPMENT  
AUTHORITY**

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

Attest: \_\_\_\_\_  
Secretary

## **EXHIBIT “A”**

### **Description of the “Property”**

All that tract or parcel of land lying and being in Land Lot 154 of the 9th Land District, City of Gainesville, Hall County, Georgia, being 1.025 acres as shown on a plat of survey for City of Gainesville and Chicago Title Insurance Company, dated January 25, 2018, prepared by Richard E. Millard, Georgia Registered Land Surveyor No. 3044, Rochester & Associates, Inc., which plat is incorporated herein by reference for a more complete description. According to said plat, the property is more fully described as follows:

BEGINNING at a point being the end of the southeastern miter at the intersection of the northwestern right-of-way of Jesse Jewell Parkway (State Route 13/State Route 369), also known as Church Street (right-of-way varies) and the southwestern right-of-way of Main Street (right-of-way varies); thence along the northwestern right-of-way of Jesse Jewell Parkway South 60 degrees 09 minutes 26 seconds West a distance of 146.78 feet to a point; thence North 50 degrees 35 minutes 37 seconds West a distance of 2.13 feet to a point on the northeastern right-of-way of Maple Street (right-of-way varies) at the back of a curb; thence along said right-of-way of Maple street and along the back of the curb North 32 degrees 50 minutes 13 seconds West 83.08 feet to a point; thence continuing along Maple Street North 30 degrees 50 minutes 03 seconds West a distance of 171.96 feet to a point on the southern right-of-way of Broad Street (right-of-way varies); thence along said right-of-way of Broad Street North 58 degrees 11 minutes 23 seconds East a distance of 172.90 feet to a point on the southwestern right-of-way of said Main Street on the edge of a sidewalk; thence along said right-of-way and along the edge of the sidewalk South 31 degrees 00 minutes 46 seconds East a distance of 240.43 feet to a point, being the northeastern miter; thence along said miter South 15 degrees 39 minutes 55 seconds West a distance of 32.04 feet to the point of beginning.

## **EXHIBIT “B”**

### **Parking Deck Plans and Specifications**



**EXHIBIT “C”**

**Form of First Phase Easement**

**EXHIBIT “D”**

**Form of First Phase License**

**EXHIBIT “E”**

**Form of Second Phase Easement**

747316-5



OWNER  
CITY OF CHICAGO  
1000 N. LAKE ST.  
CHICAGO, ILL. 60610

**GAINESVILLE PARKING  
DECK ADDITION**  
301 MAIN STREET SW,  
GAINESVILLE, GA 30501

| No. | Date       | Description   |
|-----|------------|---------------|
| 1   | 2017-12-01 | ADD BUDGET 17 |
| 2   | 2017-11-15 | FOR PERMIT    |

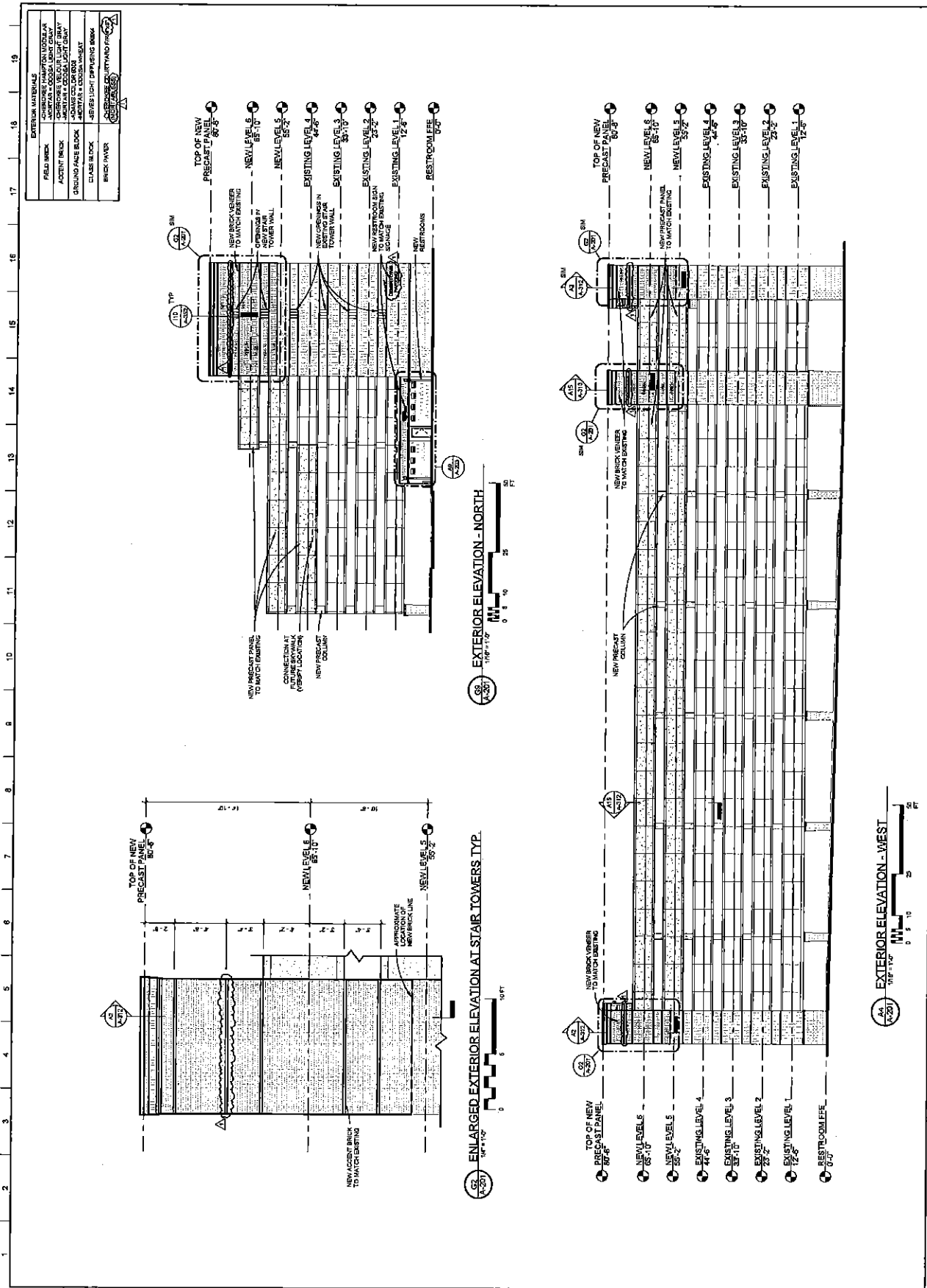
PROJECT NUMBER  
17-192

DRAWN: NG  
CHECKED: KB

**SHEET TITLE**  
**EXTERIOR ELEVATIONS**

SHEET NO.

**Sheet No. A-201**





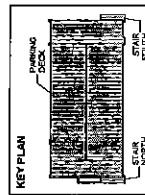




OWNER  
CITY OF GAINESVILLE  
300 HENRY WARD WAY  
GAINESVILLE, GA 30601



**GAINESVILLE PARKING  
DECK ADDITION**  
301 MAIN STREET SW.  
GAINESVILLE, GA 30601



| FOR PERMIT |             |
|------------|-------------|
| No.        | Description |

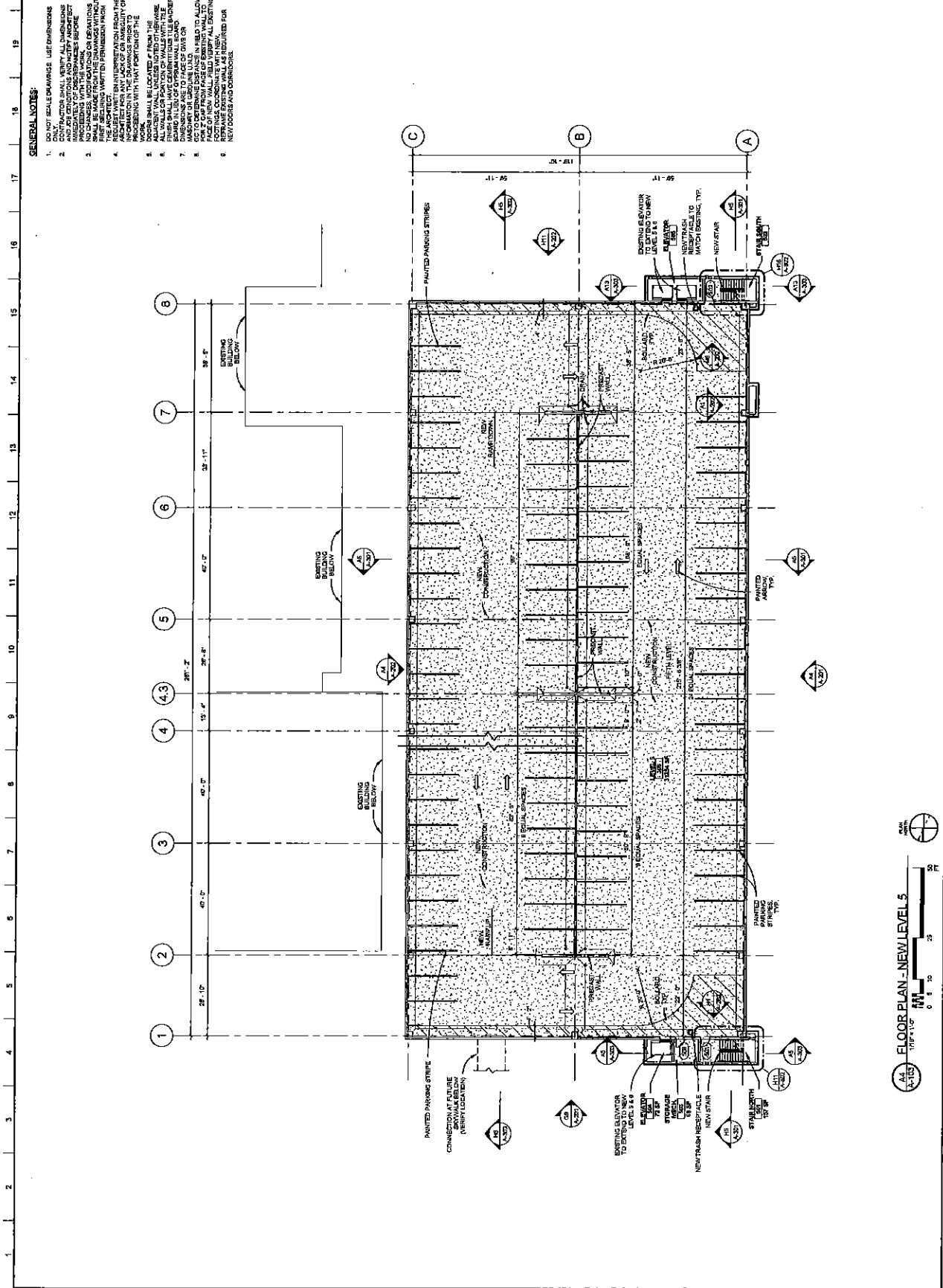
PROJECT NUMBER  
**17-192**

SHEET TITLE  
FLOOR PLAN - NEW  
LEVEL 5

**SHEET NO.**  
**A-103**

**GENERAL NOTES:**

- [illegible]

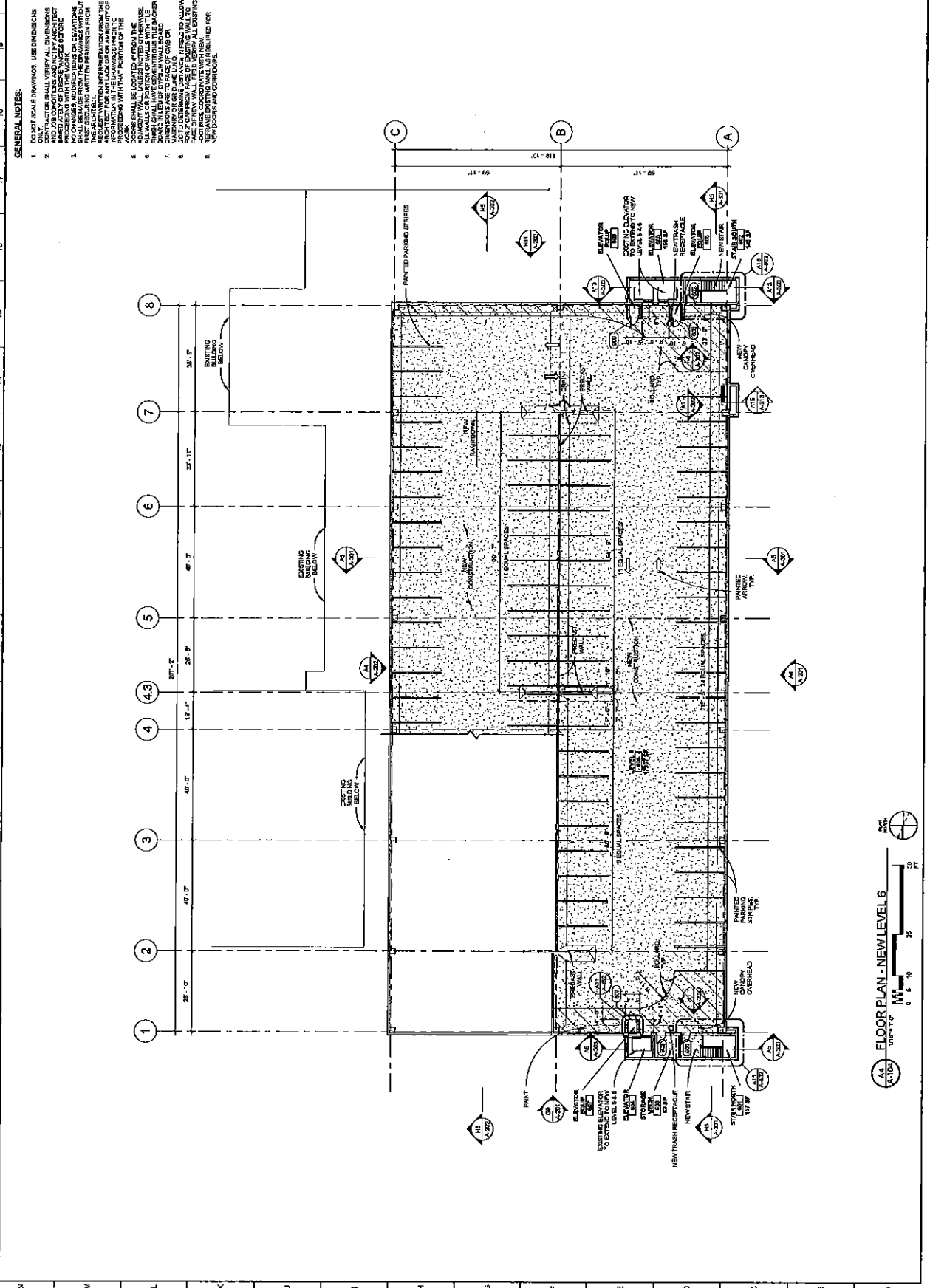


**FLOOR PLAN - NEW LEVEL 5**

1/16" = 1'-0"

0 5 10 25 50

PLAN NORTH



**GENERAL NOTES:**

1. DO NOT SCALE DRAWINGS. USE DIMENSIONS.
2. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF EXISTING STRUCTURE AND UTILITIES PRIOR TO CONSTRUCTION.
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL MECHANICAL AND ELECTRICAL CODE (IMC).
4. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
5. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.
7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

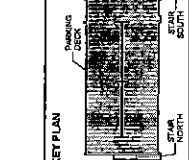
**CROFT**  
 ARCHITECTS - ENGINEERS  
 Croft & Associates  
 5400 Blue Springs Road, Suite 200  
 Gainesville, FL 32608  
 770.226.7714 (F) 770.226.7718 (C)  
 www.croft.com



**OWNER**  
 CITY OF GAINESVILLE  
 300 HENRY HAYWARD WAY  
 GAINESVILLE, FL 32601



**GAINESVILLE PARKING  
 DECK ADDITION**  
 301 MAIN STREET SW,  
 GAINESVILLE, FL 32601



| DATE     | DESCRIPTION |
|----------|-------------|
| 11/13/17 | FOR REVIEW  |
| 11/13/17 | FOR REVIEW  |
| 11/13/17 | FOR REVIEW  |
| 11/13/17 | FOR REVIEW  |
| 11/13/17 | FOR REVIEW  |

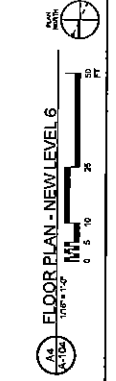
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 17-192

**DRAWN**  
 JAC

**CHECKED**  
 JAC

**SHEET TITLE**  
 FLOOR PLAN - NEW  
 LEVEL 6

**SHEET NO.**  
 A-104



**FLOOR PLAN - NEW LEVEL 6**

After recording return to:  
D. Thomas LeFevre  
Stewart, Melvin & Frost, LLP  
P. O. Box 3280  
Gainesville, Georgia 30503

## **PARKING EASEMENT**

This Parking Easement (this “Instrument”) is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), and is being entered into by and between the CITY OF GAINESVILLE, GEORGIA, a municipal corporation duly organized and existing under the Constitution and the laws of the State of Georgia (“Grantor”) and 330 MAIN ST, LLC a Georgia limited liability company (“Grantee”), and Grantor and Grantee are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.” Grantee also includes the successors and assigns of Grantee.

### **RECITALS**

A. Grantor is the owner of fee title to that certain real property situated in the City of Gainesville, Georgia, as more particularly described on Exhibit “A” attached hereto (the “City Property”). As of the Effective Date of this Instrument Grantor has developed on the City Property a seven level parking deck (herein referred to as the “Parking Deck”) containing parking spaces, and incidental improvements and facilities (collectively, the “Parking Spaces”).

B. Grantee is the owner of fee title to that certain real property situated in the City of Gainesville, Georgia, located near the City Property, which real property owned by Grantee is more particularly described on Exhibit “B” attached hereto (the “330 Main St. Property”).

C. Grantor desires to convey to Grantee and Grantee desires to acquire from Grantor certain easement rights on, in, over, and across portions of the Parking Deck (the “Easement Area”) including driveways and pedestrian pathways that provide ingress and egress to and from the adjacent public streets and the Parking Deck. Such easements shall include pedestrian and vehicular ingress and ingress and parking of vehicles. The Easement Area is more particularly described in Exhibit “C” and is depicted in Exhibit “D” attached hereto.



D. Grantor and Grantee acknowledge that the consideration for the easement rights being conveyed by Grantor to Grantee pursuant to this Instrument is the purchase of the 330 Main St. Property by Grantee from Grantor. The parties acknowledge that without the conveyance of the easement rights granted herein Grantee would not be able to develop the 330 Main St. Property as planned and disclosed to Grantor.

NOW THEREFORE, based upon the foregoing Recitals, which are incorporated into this Instrument by this reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both Parties, and both intending to be legally bound, Grantor and Grantee agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee and Grantee hereby accepts from Grantor on the terms and conditions set forth herein:

(i) a non-exclusive easement for ingress to and egress from the Parking Deck along the existing access driveways and pedestrian pathways for the purpose of exercising the rights described in (ii) below (the "Access Easement");

(ii) certain appurtenant parking rights for the use of 30 contiguous reserved parking spaces (the "Reserved Parking Spaces") by the owner of the 330 Main St. Property, its tenants, agents, employees and invitees (the "Parking Easement" and together with the Access Easement, the "Easements"), all to be located in the Parking Deck and located as shown on Exhibit "D" attached hereto.

2. Term of Easement. This Instrument and the rights and obligations set forth herein shall continue in effect in perpetuity.

3. Use of Easement Area. Grantor shall have the following rights to possess or use the Easement Area for purposes of reasonable inspections, maintenance or repair work required on the Easement Area or the supporting structure, and such other purposes as may be agreed to specifically in separate written agreements between Grantor and Grantee dated subsequent hereto. \_\_\_\_\_ ( ) of the Reserved Parking Spaces to be provided in the Easement Area shall be handicapped access spaces. The Easement Area shall be used for public parking except between the hours of 7:00 A.M. and 5:00 P.M. on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays. Grantor will enforce Grantee's exclusive use of the Reserved Parking Spaces, and Grantor shall have the sole right to remove vehicles parked improperly in the Reserved Parking Spaces. The Easements shall be utilized by Grantee without fee or charge for the duration of the Easements. The Reserved Parking Spaces shall be clearly marked as spaces reserved exclusively for Grantee and Grantee's tenants, agents, employees and invitees between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday each week of the year. Grantee shall have the right to post signage displaying the hours during which the Reserved Parking Spaces are to be exclusively used by Grantee, its employees, tenants and guests. All signage and markings relating to the Reserved Parking Spaces shall be approved by Grantor prior to installation.

4. Construction Costs and Liabilities. Notwithstanding anything to the contrary elsewhere in this Instrument, except as otherwise set forth in that certain Real Estate Sale and Development Agreement between Grantee and Grantor dated November 21, 2017 (the "Sale Agreement"); that certain Parking Development Agreement by and between Grantee and the Gainesville Redevelopment Authority dated February 23, 2018, and that certain Intergovernmental Agreement by and between Grantor and the Gainesville Redevelopment Authority dated February 23, 2018 (the "Intergovernmental Agreement"), Grantee shall bear no costs (nor incur any liabilities) in connection with the construction of the Parking Deck.

5. Adherence to Rules and Regulations. Grantee agrees to abide by any reasonable rules and regulations established by Grantor or the operator of the Parking Deck, and by any written agreements between Grantor and Grantee dated subsequent hereto governing the use, operation, maintenance, repair, access and administration of the Parking Deck.

6. Routine Maintenance; Utilities. Grantee agrees to perform routine cleaning and maintenance of the Easement Area, from time to time as and to the extent reasonably necessary. Grantor agrees to provide adequate lighting of the Easement Area and to pay for all utilities serving the Easement Area.

7. Preservation of Access. Grantor agrees to keep the Access Easement unobstructed, except as necessary to perform maintenance and repairs, so that Grantee may have access to the Reserved Parking Spaces.

8. Maintenance; Repairs; Taxes. Other than as provided in Section 6, Grantor agrees, at Grantor's sole cost and expense, to maintain, repair and/or replace the Parking Deck, including maintenance required to keep the Easement Area in good order and repair, including, but not limited to, paving, striping, and repairs to the Parking Deck.

9. Capital Repair/Replacement Work. Grantor shall be responsible for performing any Capital Repair/Replacement Work that may be required from time to time to keep in good condition and repair the Parking Deck and any driveways necessary for ingress and egress to and from public streets, with no contribution by Grantee. As used herein, the term "Capital Repair/Replacement Work" shall include repair and replacement, as needed, of the foundations, superstructure, walls, exit stairs, elevators, access ramps, the concrete flooring and parking surfaces, walls, ceilings, and structural elements of the Parking Deck in and about the Easement Area. Grantor shall determine the Capital Repair/Replacement Work that is or may be required and with respect to the time, place, and manner for performance of such work, subject to the Parking Deck being maintained at all times in compliance with all applicable laws and regulations promulgated and enforced by governmental agencies with jurisdiction over the Parking Deck and in good condition and repair. Should Grantee believe that certain capital Repair/Replacement Work is required, Grantee shall make written request of Grantor to perform such Work, and if Grantor does not perform such Work within a reasonable period of time, then with respect to the performance of such Capital Repair/Replacement Work, the dispute between the parties shall be resolved in the Superior Court of Hall County, Georgia, provided that the parties shall seek to resolve any disputes by non-binding mediation prior to any litigation in court.

10. Alterations and Improvements; No Operating Covenant. Subject to compliance with all applicable laws and regulations promulgated and enforced by governmental agencies with jurisdiction over the Parking Deck, Grantor shall have the right to expand, contract, or otherwise alter the portion of the Parking Deck outside the Easement Area at its sole cost and expense without Grantee's prior written consent, as long as Grantor's alterations do not obstruct, impair, or diminish Grantee's use of the Easement Area either during construction or upon completion of construction as provided herein.

11. Relocation and Temporary Interruption. Grantor may from time to time, and at any time, in conjunction with repairs, remodeling, damage, destruction or condemnation of the Parking Deck temporarily interrupt Grantee's use of the Easements for such time as in Grantor's reasonable judgment shall be required to eliminate or correct the cause of such interruption in the exercise of Grantor's reasonable diligence, and in that event Grantor shall at its own cost temporarily provide substitute reserved parking spaces, provided that Grantor shall use its reasonable efforts to minimize the extent and duration of any interruption. In the event that the Parking Deck is destroyed or demolished, or damaged in such a way as to interfere with Grantee's use of the Easements, Grantor shall repair or reconstruct the Parking Deck within

a commercially reasonable time, at no cost or expense to Grantee, unless the parties hereto agree otherwise in a written agreement. If the Parking Deck is to be repaired or reconstructed, Grantee shall refrain from utilizing the Parking Easement and Access Easement until Grantee receives written notice from Grantor that the parking areas within the rebuilt or repaired improvements are completed. In the event that the Reserved Parking Spaces shall be unavailable to Grantee for a period exceeding 30 days, Grantor shall provide temporary substitute parking rights in the form of a license for the use of 30 parking spaces located within the Central Business District of the City of Gainesville described on Exhibit "C" of the Sale Agreement, said license to be substantially similar in form to the license agreement attached to the Intergovernmental Agreement (the "License").

12. Insurance. Grantee agrees during all such times that this Instrument or any or all of the Easements are in effect to obtain, continuously maintain and name Grantor as an additional insured on a policy of general comprehensive public liability insurance with a limit not less than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), single limit coverage, subject to periodic increases as may be commercially reasonable, which Grantee shall carry and provide to Grantor certificates evidencing the same and agreeing that no policy shall be modified or canceled without 30 days' advance written notice to said additional insured.

Each insurance policy obtained in satisfaction of the requirements of this paragraph shall meet the following conditions.

- (1) Any insurance company issuing such policy must be licensed by the Insurance Commissioner of Georgia. Each company must have a rating of A- or better (Excellent or Superior), and Class IX or better, in A.M. Best's Insurance Reports.
- (2) All such policies shall be in such form and have such provisions as are generally considered standard provisions for the type of insurance involved.
- (3) To the extent available, all such policies shall prohibit cancellation or substantial modification, termination or lapse in coverage by the insurer without at least thirty (30) days, prior written notice to Grantor.
- (4) All applicable policies must be maintained so long as the Easements are in effect. All annual policy renewals must be forwarded to Grantor at the address set forth below or such other address as designated by Grantor from time to time.
- (5) Prior to expiration of any such policy, Grantee shall furnish Grantor with evidence satisfactory to Grantor that the policy or certificate has been renewed or replaced.

13. Assignment. Grantee may assign any and all of its rights and obligations with respect to this Instrument only to a party that is responsible for operation of the 330 Main St. Property. From and after the date of any assignment that is permitted in accordance with this Instrument, the assignor/transferor automatically shall be released from each and every obligation, responsibility, and liability arising under this Instrument and the other Party's sole recourse hereunder shall be against the assignee/transferee. Any unpermitted assignment shall be null and void unless approved by both Parties in writing, with each Party reserving the right to disapprove such assignment in its sole and absolute discretion. At the time of any permitted assignment the assignor/transferor, assignee/transferee, and the other Party to this Instrument shall enter into an assignment and assumption agreement reasonably satisfactory to all parties consistent with the foregoing.

14. Covenants Running with the Land. The covenants and agreements of Grantor hereunder are made by Grantor on its own behalf (as owner of the City Property) and on behalf of the successive owners of City Property and for the direct benefit of Grantee (as owner of the 330 Main St. Property) and the successive owners of 330 Main St. Property, it being the intent of Grantee and Grantor that the foregoing covenants and agreements of Grantor shall be covenants running with the land, the burdens of which shall be binding on City Property and its successive owners for the direct benefit of the 330 Main St. Property and its successive owners; provided, however, that in the event any sums of money are or become due from Grantor or any of Grantor's successors, attributable to any period of time during which such entity held title to any property subject hereto, such sums shall remain the liability of the entity during whose tenure such sums first became due and liability for payment thereof shall not be passed on to such entity's successor as a liability without recourse to such entity.

15. Casualty Loss. Grantor shall not be deemed to be in default of this Instrument if the Parking Deck within which the Easement Area is situated is damaged or destroyed due to a casualty loss. In such event, however, Grantor and Grantee shall consult and cooperate with one another as to appropriate repair and replacement solutions and Grantor shall be responsible to commence and complete the repair and replacement of the damaged or destroyed elements of the Parking Deck (and any other destroyed or damaged improvements within the Easement Area) as promptly as practical with the objective of restoring the same as closely as practical to the condition such improvements were in immediately prior to the casualty loss. Promptly following Grantee's request therefor, Grantor shall provide to Grantee all available plans and specifications, names of design professionals and contractors, and construction contracts for such work. Grantor shall have the right to expand, contract, or otherwise modify the Parking Deck (i) subject to Grantee's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed so long as such change has only a de minimis adverse effect on Grantee's use or enjoyment of the Easement Area upon completion of the work, nor impose any additional expense or charge on Grantee; or (ii) as required by applicable law. Any insurance monies recovered on account of such damage or destruction, less the cost, if any, of such recovery, shall be applied to the payment of the cost of repairing, replacing, and rebuilding and shall be paid out from time to time by Grantor as such work progresses upon the written certification of the architect or engineer if applicable, or the contractor in charge of such work, stating that the sum requested is justly due to those persons rendering services or furnishing materials in connection with such work. The cost of demolition and clearance, planning, design, engineering, obtaining necessary governmental permits, bonding, construction, supervision, and inspection of the work of repairing and reconstructing the Parking Deck in such circumstances shall constitute a Capital Expenditure within the meaning of Section 9 of this Instrument and the cost thereof shall be allocated between the Parties as provided therein to the extent any costs are not covered by net available insurance proceeds and with any disputes between the Parties with respect to the amount or allocation of such costs to be resolved by binding arbitration in accordance with Section 18 of this Instrument. Grantor shall be entitled to retain any excess insurance proceeds remaining after reconstruction of the Parking Deck.

16. Enforcement. In the event any Party shall default in the performance of any of its obligations hereunder and remains in default with respect thereto for thirty (30) days after receipt of notice of such failure from a non-defaulting Party (the "Notice Party"), unless such default cannot reasonably be cured in thirty (30) days, in which case sixty (60) days so long as the defaulting Party is diligently attempting to cure such default, then the Notice Party shall have the right to pursue any remedies available at law or in equity.

17. Notices. All notices or other communication provided for under this Instrument shall be in writing, and shall be delivered personally, via facsimile or email, by reputable overnight mail equivalent carrier, or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the person to receive such notice or communication at the following address and shall be effective upon delivery or refusal to accept delivery:



To Grantor:

City of Gainesville  
Attention: City Manager  
300 Henry Ward Way  
Gainesville, Georgia 30501

To Grantee:

330 Main St, LLC  
Attention: Brian Daniel  
Post Office Box 1438  
921 Athens Street  
Gainesville, Georgia 30501

Notice of change of address shall be given by written notice in the manner set forth in this Section. Notices sent by email and facsimile shall be deemed received upon successful transmission.

18. Mediation of Disputes. All claims, disputes and other matters in question between the parties which arise out of or relate to this Instrument or the breach thereof shall be subject to the jurisdiction of the Hall County Superior Court, provided that no lawsuit shall be brought without the parties first attempting to resolve any dispute by non-binding mediation.

19. Amendment. This Instrument shall not be changed orally, and no executory agreement shall be effective to waive, change, modify, or discharge it in whole or in part unless such executory agreement is in writing and is signed by the Party against whom enforcement of any waiver, change, modification, or discharge is sought.

20. Attorney Fees. If an action is commenced to enforce or interpret any provision of this Instrument or arising out of this Instrument, the prevailing Party, as determined by a final court judgment, shall be entitled to recover from the other Party such reasonable attorney fees and costs incurred in the action as the court may award.

21. Authority. The individuals executing this Instrument represent and warrant that they are duly authorized to execute this Instrument on behalf of their respective principals.

22. Governing Law. This Instrument shall be construed and enforced in accordance with the internal laws of the State of Georgia, without regard to conflicts of law principles.

23. Time and Excusable Delays. The time for performance of an obligation, other than the payment of money, shall be extended for the period during which a Party is prevented from performing by the act or omission of another Party to this Instrument, acts of God, government, or other force or event without the fault and beyond the reasonable control of such Party.

24. Waiver. No right or remedy under this Instrument shall be deemed to have been waived unless the waiver is in writing and signed by the Party to be charged. One waiver shall not be interpreted as a continuing waiver.

25. Exhibits. All Exhibits attached and referred to in this Instrument are hereby incorporated

herein as though fully set forth herein and shall be deemed to be a part of this Instrument.

26. Entire Agreement. This Instrument and the documents, agreements, and exhibits referenced herein or attached hereto set forth and contain the entire understandings and agreements of the Parties with respect to the subject matter addressed herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings, or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceedings of any kind or nature to interpret or determine the provisions or conditions of this Instrument. Notwithstanding the foregoing, nothing in this Section 26 is intended to amend, supersede, or terminate any provisions of the Sale Agreement that survive the Closing of the transaction addressed therein.

27. Severability. The invalidity or unenforceability of any provision of this Instrument, as determined by a court of competent jurisdiction, in no way shall affect the validity or enforceability of any other provision hereof.

28. Counterparts. This Instrument may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one agreement.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have executed this Instrument as of the day and year first  
above written.

**GRANTOR:**

**CITY OF GAINESVILLE, GEORGIA**

Signed, sealed and delivered  
in presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

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

Attest: \_\_\_\_\_  
City Clerk

(CORPORATE SEAL)

APPROVED AS TO FORM

By: \_\_\_\_\_  
Abbott S. Hayes, Jr., City Attorney

**GRANTEE:**

**330 MAIN ST, LLC**

Signed, sealed and delivered  
in presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

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

Approved as to Form:

Office of the City Attorney

By \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION OF THE CITY PROPERTY

EXHIBIT B

LEGAL DESCRIPTION OF THE 330 MAIN ST. PROPERTY



EXHIBIT C

LEGAL DESCRIPTION OF THE EASEMENT AREA

EXHIBIT D  
DEPICTION OF THE EASEMENT AREA

757043-1

## **LICENSE AGREEMENT**

This License Agreement (this "Agreement") is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), and is being entered into by and between CITY OF GAINESVILLE, GEORGIA, a municipal corporation duly organized and existing under the Constitution and the laws of the State of Georgia ("Licensor") and 330 MAIN ST, LLC, a Georgia limited liability company ("Licensee"), and Licensor and Licensee are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

### **RECITALS**

A. Licensee is the owner of fee title to that certain real property situated in the City of Gainesville, Georgia (the "330 Main St. Property"), which is more particularly described on Exhibit "A" of that certain Real Estate Sale and Development Agreement dated November 21, 2017 (the "Sale Agreement") upon which Licensee has constructed an office building (the "Office Building").

B. Licensor is the owner of a five level parking deck (the "Parking Deck"), located near the 330 Main St. Property, which is being expanded by the addition of two levels. Upon completion of the expansion of the Parking Deck, Licensor has agreed to convey to Licensee an easement for 30 contiguous parking spaces within the Parking Deck.

C. Licensor has failed to complete the expansion of the Parking Deck within three years of the closing date of the sale of the 330 Main St. Property by the Licensor to the Licensee (the "Closing Date"). Pursuant to that certain Intergovernmental Agreement, dated February \_\_, 2018, by and between Licensor and the Gainesville Redevelopment Authority, Licensor is obligated to provide Licensee with alternate parking.

D. Licensor desires to grant to Licensee and Licensee desires to obtain from Licensor the right to use 30 parking spaces (the "Reserved Parking Spaces") located within the Central Business District of the City of Gainesville, Georgia described on Exhibit "C" of the Sale Agreement. Said Reserved Parking Spaces shall be used for vehicular parking by Licensee, its employees, agents, tenants and invitees. The Reserved Parking Spaces are more particularly described in Exhibit "A" and are depicted in Exhibit "B" attached hereto.

E. Licensor and Licensee acknowledge that the consideration for the license to use the Reserved Parking Spaces granted by Licensor to Licensee pursuant to this Agreement is the purchase of the 330 Main St. Property by Licensee from Licensor. The parties acknowledge that without the license granted herein Licensee would not be able to develop the 330 Main St. Property as planned and disclosed to Licensor.

### **AGREEMENT**

NOW THEREFORE, based upon the foregoing Recitals, which are incorporated into this Agreement by this reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both Parties, and both intending to be legally bound, Licensor and Licensee agree as follows:

1. **Grant of License.** Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor on the terms and conditions set forth herein, a license regarding the Reserved Parking Spaces such

that Licensee and Licensee's tenants, agents, employees and invitees shall have exclusive use of such spaces from 7:00 a.m. to 5:00 p.m. each weekday..

2. Term of License. Licenser has agreed to grant to Licensee an easement for 30 contiguous parking spaces located in the Parking Deck within 30 days of the issuance of a certificate of occupancy for the additional two levels of the Parking Deck or the expiration of three years from the Closing Date, whichever occurs first. This Agreement and the rights and obligations set forth herein shall terminate on the date said easement is executed and delivered.

3. Use of Reserved Parking Spaces. Licenser shall have the right to possess or use the Reserved Parking Spaces for the purpose of reasonable inspections, maintenance or repair work required on the Reserved Parking Spaces or the supporting structure if applicable, and such other purposes as may be agreed to specifically in separate written agreements between Licenser and Licensee dated subsequent hereto. The Reserved Parking Spaces shall be used for public parking before 7:00 a.m. and after 5:00 p.m. each weekday and on Saturdays and Sundays. The Reserved Parking Spaces shall be utilized by Licensee without fee or charge for the duration of this Agreement.

4. Construction Costs and Liabilities. Licensee shall bear no costs (nor incur any liabilities) in connection with the construction of the Parking Deck.

5. Adherence to Rules and Regulations. Licensee agrees to abide by any reasonable rules and regulations established by Licenser or the operator of the Reserved Parking Spaces, and by any written agreements between Licenser and Licensee dated subsequent hereto governing the use, operation, maintenance, repair, access and administration of the Reserved Parking Spaces.

6. Routine Maintenance; Utilities. Licensee agrees to perform routine cleaning and maintenance of the Reserved Parking Spaces, from time to time as and to the extent reasonably necessary and to employ at Licensee's sole cost and expense any security for the Reserved Parking Spaces deemed necessary by Licensee in its sole and absolute discretion.

7. Preservation of Access. Licenser agrees to keep access to the Reserved Parking Spaces unobstructed. The Reserved Parking Spaces shall be clearly marked as reserved spaces for exclusive use by Licensee and Licensee's tenants, agents, employees and invitees during the hours 7:00 a.m. to 5:00 p.m. each weekday.

8. Maintenance; Repairs; Taxes. Other than as provided in Section 6, Licenser agrees, at Licenser's sole cost and expense, to maintain, repair and/or replace the Reserved Parking Spaces, including maintenance required to keep the Reserved Parking Spaces in good order and repair, including, but not limited to, paving, striping, and repairs to the Parking Deck if applicable or any ingress and egress to and from public streets, including access driveways and pedestrian pathways.

9. Alterations and Improvements. Subject to compliance with all applicable laws and regulations promulgated and enforced by governmental agencies with jurisdiction over the property where the Reserved Parking Spaces are located, Licenser shall have the right to expand, contract, or otherwise alter the areas surrounding the Reserved Parking Spaces at its sole cost and expense without Licensee's prior written consent, as long as Licenser's alterations do not obstruct, impair, or diminish Licensee's use of the Reserved Parking Spaces either during construction or upon completion of construction as provided herein.

10. Relocation and Temporary Interruption. Licensors may from time to time, and at any time, in conjunction with repairs, remodeling, damage, destruction or condemnation of the property surrounding the Reserved Parking Spaces or the property upon which the Reserved Parking Spaces are located, temporarily interrupt Licensee's use of the Reserved Parking Spaces for such time as in Licensors' reasonable judgment shall be required to eliminate or correct the cause of such interruption in the exercise of Licensors' reasonable diligence, and in that event Licensors shall at its own cost temporarily relocate the Reserved Parking Spaces, provided that Licensors shall use its reasonable efforts to minimize the extent and duration of any interruption.

11. Insurance. Licensee agrees during all such times that this Agreement is in effect to obtain, continuously maintain and name Licensors as additional insured on a policy of general comprehensive public liability insurance with a limit not less than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), single limit coverage, subject to periodic increases as may be commercially reasonable, which Licensee shall carry and provide to Licensors certificates evidencing the same and agreeing that no policy shall be modified or canceled without 30 days' advance written notice to said additional insureds.

12. Assignment. Licensee may assign any and all of its rights and obligations with respect to this Agreement only to a party that is responsible for operation of the 330 Main St. Property. From and after the date of any assignment that is permitted in accordance with this Agreement, the assignor/transferor automatically shall be released from each and every obligation, responsibility, and liability arising under this Agreement and the other Party's sole recourse hereunder shall be against the assignee/transferee. Any unpermitted assignment shall be null and void unless approved by both Parties in writing, with each Party reserving the right to disapprove such assignment in its sole and absolute discretion. At the time of any permitted assignment the assignor/transferor, assignee/transferee, and the other Party to this Agreement shall enter into an assignment and assumption agreement reasonably satisfactory to all parties consistent with the foregoing.

13. Casualty Loss. Licensors shall not be deemed to be in default of this Agreement if the property where the Reserved Parking Spaces are situated is damaged or destroyed due to a casualty loss. In such event, however, Licensors and Licensee shall consult and cooperate with one another as to appropriate repair and replacement solutions. Necessary repairs shall be at the sole expense of the Licensors.

14. Enforcement. In the event any Party shall default in the performance of any of its obligations hereunder and remains in default with respect thereto for thirty (30) days after receipt of notice of such failure from a non-defaulting Party (the "Notice Party"), unless such default cannot reasonably be cured in thirty (30) days, in which case sixty (60) days so long as the defaulting Party is diligently attempting to cure such default, then the Notice Party shall have the right to pursue any remedies available at law or in equity.

15. Notices. All notices or other communication provided for under this Agreement shall be in writing, and shall be delivered personally, via facsimile or email, by reputable overnight mail equivalent carrier, or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the person to receive such notice or communication at the following address and shall be effective upon delivery or refusal to accept delivery:



To Licensor:

City of Gainesville  
Attention: City Manager  
300 Henry Ward Way  
Gainesville, Georgia 30501

To Licensee:

330 Main St, LLC  
Attention: Brian Daniel  
Post Office Box 1438  
921 Athens Street  
Gainesville, Georgia 30501

Notice of change of address shall be given by written notice in the manner set forth in this Section. Notices sent by email and facsimile shall be deemed received upon successful transmission.

16. Amendment. This Agreement shall not be changed orally, and no executory agreement shall be effective to waive, change, modify, or discharge it in whole or in part unless such executory agreement is in writing and is signed by the Party against whom enforcement of any waiver, change, modification, or discharge is sought.

17. Attorney Fees. If an action is commenced to enforce or interpret any provision of this Agreement or arising out of this Agreement, the prevailing Party, as determined by a final court judgment, shall be entitled to recover from the other Party such reasonable attorney fees and costs incurred in the action as the court may award.

18. Authority. The individuals executing this Agreement represent and warrant that they are duly authorized to execute this Agreement on behalf of their respective principals.

19. Governing Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Georgia, without regard to conflicts of law principles.

20. Time and Excusable Delays. The time for performance of an obligation, other than the payment of money, shall be extended for the period during which a Party is prevented from performing by the act or omission of another Party to this Agreement, acts of God, government, or other force or event without the fault and beyond the reasonable control of such Party.

21. Waiver. No right or remedy under this Agreement shall be deemed to have been waived unless the waiver is in writing and signed by the Party to be charged. One waiver shall not be interpreted as a continuing waiver.

22. Exhibits. All Exhibits attached and referred to in this Agreement are hereby incorporated herein as though fully set forth herein and shall be deemed to be a part of this Agreement.

23. Entire Agreement. This Agreement and the documents, agreements, and exhibits referenced herein or attached hereto set forth and contain the entire understandings and agreements of the Parties with respect to the subject matter addressed herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings, or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceedings of any kind or nature to interpret or determine the provisions or conditions of this Agreement. Notwithstanding the foregoing, nothing in this Section 23 is intended to amend, supersede, or terminate any provisions of the Sale Agreement that survive the Closing of the transaction addressed therein.

24. Severability. The invalidity or unenforceability of any provision of this Agreement, as determined by a court of competent jurisdiction, in no way shall affect the validity or enforceability of any other provision hereof.

25. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one agreement.

*(Signatures Appear on Following Page)*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Signed, sealed and delivered  
in presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

**LICENSOR:**

**CITY OF GAINESVILLE, GEORGIA**

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

Attest: \_\_\_\_\_  
City Clerk

(CORPORATE SEAL)

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Abbott S. Hayes, Jr., City Attorney

**LICENSEE:**

**330 MAIN ST, LLC**

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

Signed, sealed and delivered  
in presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

EXHIBIT A

LEGAL DESCRIPTION OF THE RESERVED PARKING SPACES

EXHIBIT B  
DEPICTION OF THE RESERVED PARKING SPACES

746032-6



After recording return to:  
D. Thomas LeFevre  
Stewart, Melvin & Frost, LLP  
P. O. Box 3280  
Gainesville, Georgia 30503

## **SECOND PHASE PARKING EASEMENT**

This Parking Easement (this "Instrument") is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), and is being entered into by and between the CITY OF GAINESVILLE, GEORGIA, a municipal corporation duly organized and existing under the Constitution and the laws of the State of Georgia ("Grantor") and 330 MAIN ST, LLC, a Georgia limited liability company ("Grantee"), and Grantor and Grantee are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties." Grantee also includes the successors and assigns of Grantee.

### **RECITALS**

A. Grantor is the owner of fee title to that certain real property situated in the City of Gainesville, Georgia, as more particularly described on Exhibit "A" attached hereto (the "City Property"). As of the Effective Date of this Instrument Grantor has developed on the City Property a seven level parking deck (herein referred to as the "Parking Deck") containing parking spaces, and incidental improvements and facilities (collectively, the "Parking Spaces").

B. Grantee is the owner of fee title to that certain real property situated in the City of Gainesville, Georgia, located near the City Property, which real property owned by Grantee is more particularly described on Exhibit "B" attached hereto (the "330 Main St. Property").

C. Pursuant to that certain Parking Easement executed on \_\_\_\_\_, 20\_\_ (the "Prior Easement"), Grantor conveyed to Grantee certain easement rights to 30 contiguous parking spaces located within the Parking Deck and certain easement rights on, in, over, and across portions of the Parking Deck including driveways and pedestrian pathways that provide ingress and egress to and from the adjacent public streets and the Parking Deck.

D. Grantor desires to convey to Grantee and Grantee desires to acquire from Grantor certain easement rights on, in, over, and across additional portions of the Parking Deck (the "Easement Area") including driveways and pedestrian pathways that provide ingress and egress to and from the adjacent public streets and the Parking Deck. Such easements shall include pedestrian and vehicular ingress and egress and parking of vehicles. The Easement Area is more particularly described in Exhibit "C" and is depicted in Exhibit "D" attached hereto.

D. Grantor and Grantee acknowledge that the consideration for the easement rights being conveyed by Grantor to Grantee pursuant to this Instrument is the purchase of the 330 Main St. Property by Grantee from Grantor. The parties acknowledge that without the conveyance of the easement rights granted herein Grantee would not be able to develop the 330 Main St. Property as planned and disclosed to Grantor.

NOW THEREFORE, based upon the foregoing Recitals, which are incorporated into this Instrument by this reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both Parties, and both intending to be legally bound, Grantor and Grantee agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee and Grantee hereby accepts from Grantor on the terms and conditions set forth herein:

(i) a non-exclusive easement for ingress to and egress from the Parking Deck along the existing access driveways and pedestrian pathways for the purpose of exercising the rights described in (ii) below (the "Access Easement");

(ii) certain appurtenant parking rights for the use of 54 contiguous reserved parking spaces (the "Reserved Parking Spaces") on the level of the Parking Deck containing the 30 reserved spaces under the Prior Easement, by the owner of the 330 Main St. Property, its tenants, agents, employees and invitees (the "Parking Easement" and together with the Access Easement, the "Easements"), all located in the Parking Deck and contiguous to the 30 spaces described in the Prior Easement and all located as shown on Exhibit "D" attached hereto.

2. Term of Easement. This Instrument and the rights and obligations set forth herein shall continue in effect in perpetuity.

3. Use of Easement Area. Grantor shall have the following rights to possess or use the Easement Area for purposes of reasonable inspections, maintenance or repair work required on the Easement Area or the supporting structure, and such other purposes as may be agreed to specifically in separate written agreements between Grantor and Grantee dated subsequent hereto. \_\_\_\_\_ ( ) of the Reserved Parking Spaces to be provided in the Easement Area shall be handicapped access spaces. The Easement Area shall be used for public parking except between the hours of 7:00 a.m. and 5:00 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays. Grantor will enforce Grantee's exclusive use of the Reserved Parking Spaces, and Grantor shall have the sole right to remove vehicles parked improperly in the Reserved Parking Spaces. The Easements shall be utilized by Grantee without fee or charge for the duration of the Easements. The Reserved Parking Spaces shall be clearly marked as spaces reserved exclusively for Grantee and Grantee's tenants, agents, employees and invitees between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday each week of the year. Grantee shall have the right to post signage displaying the hours during which the Reserved Parking Spaces are to be exclusively used by Grantee, its employees, tenants and guests. All signage and markings relating to the Reserved Parking Spaces shall be approved by Grantor prior to installation.

4. Construction Costs and Liabilities. Notwithstanding anything to the contrary elsewhere in this Instrument, except as otherwise set forth in that certain Real Estate Sale and Development Agreement between Grantee and Grantor dated November 21, 2017 (the "Sale Agreement"); that certain Parking Development Agreement by and between Grantee and the Gainesville Redevelopment Authority dated February 23, 2018, and that certain Intergovernmental Agreement by and between Grantor and the Gainesville Redevelopment Authority dated February 23, 2018 (the "Intergovernmental Agreement"),

Grantee shall bear no costs (nor incur any liabilities) in connection with the construction of the Parking Deck.

5. Adherence to Rules and Regulations. Grantee agrees to abide by any reasonable rules and regulations established by Grantor or the operator of the Parking Deck, and by any written agreements between Grantor and Grantee dated subsequent hereto governing the use, operation, maintenance, repair, access and administration of the Parking Deck.

6. Routine Maintenance; Utilities. Grantee agrees to perform routine cleaning and maintenance of the Easement Area, from time to time as and to the extent reasonably necessary. Grantor agrees to provide adequate lighting of the Easement Area and to pay for all utilities serving the Easement Area.

7. Preservation of Access. Grantor agrees to keep the Access Easement unobstructed, except as necessary to perform maintenance and repairs, so that Grantee may have access to the Reserved Parking Spaces.

8. Maintenance; Repairs; Taxes. Other than as provided in Section 6, Grantor agrees, at Grantor's sole cost and expense, to maintain, repair and/or replace the Parking Deck, including maintenance required to keep the Easement Area in good order and repair, including, but not limited to, paving, striping, and repairs to the Parking Deck.

9. Capital Repair/Replacement Work. Grantor shall be responsible for performing any Capital Repair/Replacement Work that may be required from time to time to keep in good condition and repair the Parking Deck and any driveways necessary for ingress and egress to and from public streets, with no contribution by Grantee. As used herein, the term "Capital Repair/Replacement Work" shall include repair and replacement, as needed, of the foundations, superstructure, walls, exit stairs, elevators, access ramps, the concrete flooring and parking surfaces, walls, ceilings, and structural elements of the Parking Deck in and about the Easement Area. Grantor shall determine the Capital Repair/Replacement Work that is or may be required and with respect to the time, place, and manner for performance of such work, subject to the Parking Deck being maintained at all times in compliance with all applicable laws and regulations promulgated and enforced by governmental agencies with jurisdiction over the Parking Deck and in good condition and repair. Should Grantee believe that certain capital Repair/Replacement Work is required, Grantee shall make written request of Grantor to perform such Work, and if Grantor does not perform such Work within a reasonable period of time, then with respect to the performance of such Capital Repair/Replacement Work, the dispute between the parties shall be resolved in the Superior Court of Hall County, Georgia, provided that the parties shall seek to resolve any disputes by non-binding mediation prior to any litigation in court.

10. Alterations and Improvements; No Operating Covenant. Subject to compliance with all applicable laws and regulations promulgated and enforced by governmental agencies with jurisdiction over the Parking Deck, Grantor shall have the right to expand, contract, or otherwise alter the portion of the Parking Deck outside the Easement Area at its sole cost and expense without Grantee's prior written consent, as long as Grantor's alterations do not obstruct, impair, or diminish Grantee's use of the Easement Area either during construction or upon completion of construction as provided herein.

11. Relocation and Temporary Interruption. Grantor may from time to time, and at any time, in conjunction with repairs, remodeling, damage, destruction or condemnation of the Parking Deck temporarily interrupt Grantee's use of the Easements for such time as in Grantor's reasonable judgment shall be required to eliminate or correct the cause of such interruption in the exercise of Grantor's reasonable diligence, and in that event Grantor shall at its own cost temporarily provide substitute reserved parking

spaces, provided that Grantor shall use its reasonable efforts to minimize the extent and duration of any interruption. In the event that the Parking Deck is destroyed or demolished, or damaged in such a way as to interfere with Grantee's use of the Easements, Grantor shall repair or reconstruct the Parking Deck within a commercially reasonable time, at no cost or expense to Grantee, unless the parties hereto agree otherwise in a written agreement. If the Parking Deck is to be repaired or reconstructed, Grantee shall refrain from utilizing the Parking Easement and Access Easement until Grantee receives written notice from Grantor that the parking areas within the rebuilt or repaired improvements are completed. In the event that the Reserved Parking Spaces shall be unavailable to Grantee for a period exceeding 30 days, Grantor shall provide temporary substitute parking rights in the form of a license for the use of 54 parking spaces located within the Central Business District of the City of Gainesville described on Exhibit "C" of the Sale Agreement, said license to be substantially similar in form to the license agreement attached to the Intergovernmental Agreement (the "License").

12. Insurance. Grantee agrees during all such times that this Instrument or any or all of the Easements are in effect to: obtain, continuously maintain and name Grantor as an additional insured on a policy of general comprehensive public liability insurance with a limit not less than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), single limit coverage, subject to periodic increases as may be commercially reasonable, which Grantee shall carry and provide to Grantor certificates evidencing the same and agreeing that no policy shall be modified or canceled without 30 days' advance written notice to said additional insured.

Each insurance policy obtained in satisfaction of the requirements of this paragraph shall meet the following conditions.

- (1) Any insurance company issuing such policy must be licensed by the Insurance Commissioner of Georgia. Each company must have a rating of A- or better (Excellent or Superior), and Class IX or better, in A.M. Best's Insurance Reports.
- (2) All such policies shall be in such form and have such provisions as are generally considered standard provisions for the type of insurance involved.
- (3) To the extent available, all such policies shall prohibit cancellation or substantial modification, termination or lapse in coverage by the insurer without at least thirty (30) days, prior written notice to Grantor.
- (4) All applicable policies must be maintained so long as the Easements are in effect. All annual policy renewals must be forwarded to Grantor at the address set forth below or such other address as designated by Grantor from time to time.
- (5) Prior to expiration of any such policy, Grantee shall furnish Grantor with evidence satisfactory to Grantor that the policy or certificate has been renewed or replaced.

13. Assignment. Grantee may assign any and all of its rights and obligations with respect to this Instrument only to a party that is responsible for operation of the 330 Main St. Property. From and after the date of any assignment that is permitted in accordance with this Instrument, the assignor/transferor automatically shall be released from each and every obligation, responsibility, and liability arising under this Instrument and the other Party's sole recourse hereunder shall be against the assignee/transferee. Any unpermitted assignment shall be null and void unless approved by both Parties in writing, with each Party reserving the right to disapprove such assignment in its sole and absolute discretion. At the time of any permitted assignment the assignor/transferor, assignee/transferee, and the other Party to this Instrument shall enter into an assignment and assumption agreement reasonably satisfactory to all parties consistent

with the foregoing.

14. Covenants Running with the Land. The covenants and agreements of Grantor hereunder are made by Grantor on its own behalf (as owner of the City Property) and on behalf of the successive owners of City Property and for the direct benefit of Grantee (as owner of the 330 Main St. Property) and the successive owners of 330 Main St. Property, it being the intent of Grantee and Grantor that the foregoing covenants and agreements of Grantor shall be covenants running with the land, the burdens of which shall be binding on City Property and its successive owners for the direct benefit of the 330 Main St. Property and its successive owners; provided, however, that in the event any sums of money are or become due from Grantor or any of Grantor's successors, attributable to any period of time during which such entity held title to any property subject hereto, such sums shall remain the liability of the entity during whose tenure such sums first became due and liability for payment thereof shall not be passed on to such entity's successor as a liability without recourse to such entity.

15. Casualty Loss. Grantor shall not be deemed to be in default of this Instrument if the Parking Deck within which the Easement Area is situated is damaged or destroyed due to a casualty loss. In such event, however, Grantor and Grantee shall consult and cooperate with one another as to appropriate repair and replacement solutions and Grantor shall be responsible to commence and complete the repair and replacement of the damaged or destroyed elements of the Parking Deck (and any other destroyed or damaged improvements within the Easement Area) as promptly as practical with the objective of restoring the same as closely as practical to the condition such improvements were in immediately prior to the casualty loss. Promptly following Grantee's request therefor, Grantor shall provide to Grantee all available plans and specifications, names of design professionals and contractors, and construction contracts for such work. Grantor shall have the right to expand, contract, or otherwise modify the Parking Deck (i) subject to Grantee's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed so long as such change has only a de minimis adverse effect on Grantee's use or enjoyment of the Easement Area upon completion of the work, nor impose any additional expense or charge on Grantee; or (ii) as required by applicable law. All insurance monies recovered on account of such damage or destruction, less the cost, if any, of such recovery, shall be applied to the payment of the cost of repairing, replacing, and rebuilding and shall be paid out from time to time by Grantor as such work progresses upon the written certification of the architect or engineer if applicable, or the contractor in charge of such work, stating that the sum requested is justly due to those persons rendering services or furnishing materials in connection with such work. The cost of demolition and clearance, planning, design, engineering, obtaining necessary governmental permits, bonding, construction, supervision, and inspection of the work of repairing and reconstructing the Parking Deck in such circumstances shall constitute a Capital Expenditure within the meaning of Section 9 of this Instrument and the cost thereof shall be allocated between the Parties as provided therein to the extent any costs are not covered by net available insurance proceeds and with any disputes between the Parties with respect to the amount or allocation of such costs to be resolved by binding arbitration in accordance with Section 18 of this Instrument. Grantor shall be entitled to retain any excess insurance proceeds remaining after reconstruction of the Parking Deck.

16. Enforcement. In the event any Party shall default in the performance of any of its obligations hereunder and remains in default with respect thereto for thirty (30) days after receipt of notice of such failure from a non-defaulting Party (the "Notice Party"), unless such default cannot reasonably be cured in thirty (30) days, in which case sixty (60) days so long as the defaulting Party is diligently attempting to cure such default, then the Notice Party shall have the right to pursue any remedies available at law or in equity.



17. Notices. All notices or other communication provided for under this Instrument shall be in writing, and shall be delivered personally, via facsimile or email, by reputable overnight mail equivalent carrier, or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the person to receive such notice or communication at the following address and shall be effective upon delivery or refusal to accept delivery:

To Grantor:

City of Gainesville  
Attention: City Manager  
300 Henry Ward Way  
Gainesville, Georgia 30501

To Grantee:

330 Main St, LLC  
Attention: Brian Daniel  
Post Office Box 1438  
921 Athens Street  
Gainesville, Georgia 30501

Notice of change of address shall be given by written notice in the manner set forth in this Section. Notices sent by email and facsimile shall be deemed received upon successful transmission.

18. Mediation of Disputes. All claims, disputes and other matters in question between the parties which arise out of or relate to this Instrument or the breach thereof shall be subject to the jurisdiction of the Hall County Superior Court, provided that no lawsuit shall be brought without the parties first attempting to resolve any dispute by non-binding mediation.

19. Amendment. This Instrument shall not be changed orally, and no executory agreement shall be effective to waive, change, modify, or discharge it in whole or in part unless such executory agreement is in writing and is signed by the Party against whom enforcement of any waiver, change, modification, or discharge is sought.

20. Attorney Fees. If an action is commenced to enforce or interpret any provision of this Instrument or arising out of this Instrument, the prevailing Party, as determined by a final court judgment, shall be entitled to recover from the other Party such reasonable attorney fees and costs incurred in the action as the court may award.

21. Authority. The individuals executing this Instrument represent and warrant that they are duly authorized to execute this Instrument on behalf of their respective principals.

22. Governing Law. This Instrument shall be construed and enforced in accordance with the internal laws of the State of Georgia, without regard to conflicts of law principles.

23. Time and Excusable Delays. The time for performance of an obligation, other than the payment of money, shall be extended for the period during which a Party is prevented from performing by the act or omission of another Party to this Instrument, acts of God, government, or other force or event without the fault and beyond the reasonable control of such Party.

24. Waiver. No right or remedy under this Instrument shall be deemed to have been waived unless the waiver is in writing and signed by the Party to be charged. One waiver shall not be interpreted as a continuing waiver.

25. Exhibits. All Exhibits attached and referred to in this Instrument are hereby incorporated herein as though fully set forth herein and shall be deemed to be a part of this Instrument.

26. Entire Agreement. This Instrument and the documents, agreements, and exhibits referenced herein or attached hereto set forth and contain the entire understandings and agreements of the Parties with respect to the subject matter addressed herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings, or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceedings of any kind or nature to interpret or determine the provisions or conditions of this Instrument. Notwithstanding the foregoing, nothing in this Section 26 is intended to amend, supersede, or terminate any provisions of the Sale Agreement that survive the Closing of the transaction addressed therein.

27. Severability. The invalidity or unenforceability of any provision of this Instrument, as determined by a court of competent jurisdiction, in no way shall affect the validity or enforceability of any other provision hereof.

28. Counterparts. This Instrument may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one agreement.

IN WITNESS WHEREOF, the Parties have executed this Instrument as of the day and year first  
above written.

**GRANTOR:**

**CITY OF GAINESVILLE, GEORGIA**

Signed, sealed and delivered  
in presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

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

Attest: \_\_\_\_\_  
City Clerk

(CORPORATE SEAL)

APPROVED AS TO FORM

By: \_\_\_\_\_  
Abbott S. Hayes, Jr., City Attorney

**GRANTEE:**

**330 MAIN ST, LLC**

Signed, sealed and delivered  
in presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

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

Approved as to Form:

Office of the City Attorney

By \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION OF THE CITY PROPERTY

EXHIBIT B

LEGAL DESCRIPTION OF THE 330 MAIN ST. PROPERTY



EXHIBIT C

LEGAL DESCRIPTION OF THE EASEMENT AREA

EXHIBIT D  
DEPICTION OF THE EASEMENT AREA

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