AGENDA

Gainesville Mayor/Council Meeting
Tuesday, August 20, 2019, 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:

COUNCIL ANNOUNCEMENTS:

PUBLIC COMMENTS: (20 minutes maximum)

CONSENT AGENDA:

Minutes

A. July 22, 2019 Joint Municipal Association

B. August 1, 2019 Work Session

C. August 6, 2019 Mayor/Council Meeting

Resolutions

A. BR-2019-29 America's Home Place, Inc. Property Acquisition

B. BR-2019-30 Assignment of Airport Leases to Boehringer Ingelheim Animal Health USA, Inc. and Authorization of Access and Parking Easements

C. BR-2019-31 Authorization to Execute SPLOST VIII Intergovernmental Agreement

D. BR-2019-32 Lease Renewal with U.S. Army Corps of Engineer for Clarks Bridge Park

E. PR-2019-13 Governor's Office of Highway Safety Highway Enforcement of Aggressive Traffic (HEAT) Grant Supplement

GENERAL LEGISLATION:

A. **Ordinance No. 2019-24**
Amend Title 6 Chapter 6-21 Entitled Small Wireless Facilities In the City Right of Way
AN ORDINANCE TO AMEND TITLE 6 ENTITLED "LICENSES, PERMITS AND BUSINESS REGULATIONS" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY CREATING A CHAPTER 6-21 ENTITLED "SMALL WIRELESS FACILITIES IN THE CITY RIGHT OF WAY" TO IMPOSE APPLICATION, ADMINISTRATIVE REVIEW, AND OTHER REQUIREMENTS ON WIRELESS PROVIDERS WANTING TO COLLOCATE A SMALL WIRELESS FACILITY IN THE RIGHT OF WAY OR TO INSTALL, MODIFY, OR REPLACE ASSOCIATED POLES OR DECORATIVE POLES IN THE RIGHT OF WAY; TO AMEND CHAPTER 6-17 ENTITLED "USE OF CITY RIGHT-OF-WAY" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ADDING SECTION 6-17-8 ENTITLED "EXCEPTION;" TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

B. **Ordinance No. 2019-25**
Amend Title 10 as it Pertains to Water Rate
AN ORDINANCE TO AMEND SUBSECTION (e) OF SECTION 10-1-41 ENTITLED "CLASSIFICATION OF USERS AND RATE SCHEDULE" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS 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:

CITY CLERK ISSUES:

EXECUTIVE SESSION:

ADJOURNMENT:

Final: Friday, August 16, 2019, 1:35 PM

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/15/2019

Presenter:

Item of Business: Consent Agenda Items

Meeting Date: 8/20/2019

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.

History/Background:

Facts & Issues for Consideration:

Department Recommendation:

Department Director:

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

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/16/2019

Presenter: Denise Jordan

Item of Business: July 22, 2019 Joint Municipal Association

Meeting Date: 8/20/2019

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

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

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/16/2019

Presenter: Denise Jordan

Item of Business: August 1, 2019 Work Session

Meeting Date: 8/20/2019

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

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

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/16/2019

Presenter: Denise Jordan

Item of Business: August 6, 2019 Mayor/Council Meeting

Meeting Date: 8/20/2019

Purpose of Request:

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

History/Background:

Facts & Issues for Consideration:

The referenced 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

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

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/9/2019

Presenter: Bryan Lackey

Item of Business: BR-2019-29 America's Home Place, Inc. Property Acquisition

Meeting Date: 8/20/2019

Purpose of Request:

To authorize the Purchase and Sale Agreement for property owned by America's Home Place, Inc.

History/Background:

Facts & Issues for Consideration:

The property is located on Cleveland Highway as described in Exhibit A to the Real Estate Purchase and Sale Agreement and will be used for the purposes of constructing a fire station.

Department Recommendation:

Approval of the resolution.

Department Director:

Bryan Lackey

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

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
BR-2019-29 America's Home Place, Inc. Property Acquisition	Resolution
America's Home Place RE Purchase & Sale Agreement	Contract/Agreement/MOU

RESOLUTION BR-2019-29

America's Home Place, Inc. Property Acquisition

WHEREAS, the governing body of the City of Gainesville, Georgia (the "City") has a desire to provide fire services for the protection and safety of the public; and

WHEREAS, the property owned by America's Home Place, Inc., located on Cleveland Highway, as more particularly described in Exhibit "A" to the Real Estate Purchase and Sale Agreement described below, is seen as a vital link to facilitate the continued provision of fire services to the public by the construction of a fire station on said property; and

WHEREAS, the governing body for the City desires to purchase said property.

NOW, THEREFORE, BE IT RESOLVED THAT the governing body for the City of Gainesville does hereby adopt and ratify the Real Estate Purchase and Sale Agreement between the City of Gainesville and America's Home Place, Inc. with an effective date of June 28, 2019, and does hereby authorize the purchase of the property owned by America's Home Place, Inc. and directs the Mayor, the City Manager and the City Attorney to execute the Real Estate Purchase and Sale Agreement with America's Home Place, Inc., as well as all other such documents and agreements that may be necessary to complete the closing of the purchase of the property.

Adopted this _____ day of August, 2019.

_____

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

STATE OF GEORGIA

COUNTY OF HALL

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement (this "Agreement") is made and entered into by and between America's Home Place, Inc., a Georgia corporation ("AHP"), and The City of Gainesville, Georgia ("the City") (AHP and the City hereinafter referred to collectively as "the Parties");

WHEREAS, AHP is the owner of a certain parcel of real property identified as "Tract One," containing 0.716 acres, as depicted on the attached Exhibit "A" (hereinafter referred to as "Tract One"), as well as a certain parcel of real property identified as "Tract Two," containing 0.855 acres, as depicted on the attached Exhibit "A" (hereinafter referred to as "Tract Two");

WHEREAS, the City is the owner of a certain parcel of real property identified in red cross-hatching and containing forty (40) feet of road frontage on Cleveland Highway, as depicted on the attached Exhibit "A" (hereinafter referred to as "Frontage Tract") (Tract One, Tract Two, and Frontage Tract hereinafter referred to collectively as "the Property");

WHEREAS, the City desires to purchase Tract Two, and AHP desires to sell Tract Two pursuant to the terms and conditions of this Agreement; and

WHEREAS, AHP desires to purchase Frontage Tract, and the City desires to sell Frontage Tract pursuant to the terms and conditions of this Agreement.

W I T N E S S E T H:

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1.1 Agreement of Purchase and Sale. The City agrees to purchase and AHP agrees to sell, subject to the terms and conditions set forth in this Agreement, Tract Two. AHP agrees to purchase, and the City agrees to sell, subject to the terms and conditions set forth in this Agreement, Frontage Tract.

1.2 Purchase Price. The purchase price to be paid by the City to AHP for Tract Two shall be Fifty Thousand and no/100 (50,000.00) Dollars (the "Purchase Price") and shall be paid by the City to AHP at Closing as follows: All cash at closing.

1.3 The City intends to obtain a Phase 1 environmental assessment on Tract Two and any additional assessments indicated by the results of the Phase 1 assessment.

The obligations of the City are expressly contingent upon satisfactory results from any environmental study in the sole and complete discretion of the City.

1.4 The Parties' obligations are contingent upon satisfactory completion of any and all inspections set forth below.

1.5 Effective Date. The parties hereto agree that for all purposes of this Agreement, the Effective Date of this Agreement shall be the date that this Agreement is executed by AHP.

1.6 Inspection Period. The Parties, at each of their own sole cost and expense shall have the right to conduct an inspection of the Property for a period from the effective date, through and including that date which is ninety (90) days after the Effective Date (the "Inspection Period"). The inspection may include economic, engineering, financing, environmental, regulatory and any other factor relating to the Parties' use of the Property. During the Inspection Period, and thereafter if neither of the Parties terminates this Agreement, the Parties shall give each other and each other's agent and representatives reasonable access to the Property during normal business hours for purposes of inspecting and conducting such tests as are reasonable and necessary for the Parties to determine if the Property is satisfactory for the Parties' intended use

All inspections conducted by the Parties pursuant to this Agreement shall be non-invasive in nature, and shall not include any invasive Phase II or other sampling or testing unless otherwise agreed to in writing by the Parties, subject to the Parties' review and approval of a proposed scope of work for such activities, which may be granted or withheld at either of the Parties' sole discretion. The Parties shall ensure that: (a) all of their affiliates, employees, advisors, contractors, representatives or agents ("Representatives") who enter the Property shall have adequate, commercially reasonable insurance; (b) no liens shall be placed on the Property or levied against either of the Parties as a result of either of the Parties' inspection; and (c) the Property is restored to the same or similar condition as existed prior to any entry.

The Parties expressly agree that the results of any environmental investigation, review, sampling or analyses obtained by either Party in the course of or in connection with the inspections conducted hereunder shall remain confidential to the Party who obtained such information and its Representatives through the date of Closing and shall not be disclosed to the Party who did not obtain such information, the Georgia Environmental Protection Division, any other governmental entity or to any other third parties prior to Closing. These confidentiality obligations shall survive the termination of this Agreement.

Each of the Parties shall indemnify, hold harmless from and defend the other Party, and its agents, affiliates, successors and assigns, from and against any and all liabilities, claims, causes of action, damages, losses, penalties, forfeitures, suits, costs and expenses (including without limitation, investigation costs, costs of defense, settlement and reasonable attorneys' fees) incurred or arising in connection with the Parties' or any Representative's breach of the confidentiality and other obligations set forth in this Agreement, entry onto the Property or enforcement of this indemnity. All indemnification obligations contained herein shall survive the Closing and any termination of this Agreement.

"AS IS" PURCHASE

To the maximum extent permitted by applicable law and except for any representations and warranties specifically set forth herein ("Warranties"), the transactions contemplated by this Agreement are made and will be made without representation, covenant, or warranty of any kind (whether express, implied, or, to the maximum extent permitted by applicable law, statutory) by the Parties. As a material part of the consideration for this Agreement, the Party that takes title to any of the Property agrees to accept the Property on an "AS IS" and "WHERE IS" basis, with all faults and any and all latent and patent defects, and without any representation or warranty, all of which the Parties hereby disclaims, except for Warranties. Except for Warranties, no warranty or representation is made by the Parties as to (a) fitness for any particular purpose, (b) merchantability, (c) design, (d) quality, (e) condition, (f) operation or income, (g) compliance with drawings or specifications, (h) absence of defects, (i) absence of hazardous or toxic substances, (j) absence of faults, (k) flooding, or (l) compliance with laws and regulations including, without limitation, those relating to health, safety, and the environment. The Parties acknowledge that the Parties have entered into this Contract with the intention of making and relying upon each of the Parties' own investigation of the physical, environmental, economic use, compliance, and legal condition of the Property and that the Parties are not now relying, and will not later rely, upon any representations and warranties made by the other Party, respectively, or anyone acting or claiming to act, by, through or under or on the other Parties' behalf concerning the Property, except for Warranties.

From and after the date of Closing, the Parties, for themselves and their Representatives, successors-in-title, successors and assigns, hereby release, indemnify, hold harmless and forever discharge the other Party and its agents, affiliates, successors and assigns (collectively the "releasees") from any and all rights, claims and demands, damages and losses at law or in equity, whether known or unknown at the time of this Agreement, which the Parties have or may have in the future, arising out of the physical, environmental, economic or legal condition of the Property, including, without limitation, all claims in tort or contract and any claim for indemnification or contribution arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601, et seq.) or any similar federal, state or local statute, rule or regulation and any and all matters affecting the Property.

1.7 Right of Termination. If either of the Parties discovers any matter during the Inspection Period that is unacceptable to either of the Parties for any reason, in either of the Parties' sole discretion, either of the Parties may terminate this Agreement by giving the other Party written notice thereof (the "Termination Notice") at any time prior to the expiration of the Inspection Period. If either of the Parties fails to timely give the Termination Notice prior to the expiration of the Inspection Period, upon expiration of the Inspection Period, the Parties shall be deemed to have waived any right to terminate this Agreement. If the either of the Parties provides the Termination Notice prior to the expiration of the Inspection Period, the Parties shall have no further right or obligation hereunder; provided however, the Parties shall be obligated to comply with the restoration and indemnification obligations set forth in this Agreement. Time is of the essence in regard to termination as set forth herein.

1.8 Documentation Delivery. Not later than 5:00 P.M., on the fifth (5^{th}) business day after the Effective Date, the Parties shall deliver to the other Party and the other Party's attorney any and all such documents concerning the title and condition of the Property as are known to the Parties, including but not limited to all deeds, plats, surveys, maps, drawings, plats, title insurance policies, title reports, environmental reports, soils analysis, engineering reports, appraisals, tax bills, tax assessment notices, declarations of covenants or conditions in effect on the Property, any permits applicable to the Property, and the reports of any other kind or nature. The Parties will additionally deliver a full copy of any and all current leases, together with any amendments or extensions thereof, and rent roles for the Property. Either of the Parties may provide a list of additional requested documentation to the other Party, and the Parties agree to deliver all such available documents within five (5) business days. The information, other than matters of public record or matters generally known to the public, furnished to, or obtained through inspection of the Property by, the Parties, their affiliates, lenders, employees, attorneys, accountants and other professionals or agents relating to the Property, will be treated by the Parties, their affiliates, lenders, employees, agents, and current and prospective investors as confidential. Should the Closing fail to occur for any reason, the Parties shall return to the other Party all existing copies of the Property Information within three (3) business days of the Closing date.

1.9 Condition of the Property. The Parties represent that at the closing any and all improvements located thereon will be in the same condition as they are on the Effective Date of this Agreement. AHP shall convey title to Tract Two to the City via limited warranty deed, and the City shall convey title to Frontage Tract to AHP via limited warranty deed.

1.10 Permitted Exceptions. Title to the Property shall be free and clear of liens and encumbrances, except for: (i) zoning; (ii) current year's and future ad valorem taxes and assessments affecting the Property which are not yet due and payable; (iii) any liens, encumbrances or other title exceptions approved or waived by the Parties as provided in Section 1.11.

1.11 Title Examination. The City will complete its examination of the title to Tract Two during the Inspection Period. AHP will complete its examination of the title to Frontage Tract during the Inspection Period. As part of this examination, the purchasing Party

will obtain, and the purchasing Party will pay for at closing, a title insurance certificate and commitment showing the selling Party's title to the property to be purchased to be marketable in fact. The purchasing Party shall notify the selling Party in writing of any objections or defects to the title. If the purchasing Party delivers notice of any such objections or defects, then the selling Party, within ten (10) days after receipt of such notice, shall either elect: (i) not to cure any such defects or (ii) to promptly attempt to cure any such defects before Closing. The selling Party's failure to send written notice to the purchasing Party within such ten (10) day period electing to either not cure or attempt to cure such defects shall be deemed an election by the selling Party not to cure such defects. If the selling Party refuses to cure such defects, then, no later than ten (10) days after receipt of the selling Party's notice refusing to cure, or the deemed refusal to cure, the purchasing Party shall elect as its sole remedy to either: (i) terminate this Agreement by giving written notice thereof to the selling Party, in which event: (a) this Agreement shall thereupon be of no further force and effect; and (b) no party hereto shall have any further rights, duties or obligations hereunder; or (ii) accept the title to the property subject to the defects without adjustment to the Purchase Price and proceed to Closing as set forth herein. At closing, the purchasing Party is to pay all premiums necessary to convert the title insurance commitment to a Purchaser's title insurance policy in the full amount of the purchase price.

1.12 Survey. The City shall obtain at a cost to be paid by the City, as soon as practical after the effective date, an ALTA/ACSM Survey according to the Parties' specifications, complete with utilities, and showing the Property and the total acreage to the nearest 1/100th acre. The Parties shall notify the other Party in writing of any objections or defects to the Property revealed by the Survey. If either Party delivers notice of any such objections or defects, then the other Party, within ten (10) days after receipt of such notice, shall either elect: (i) not to cure any such defects or (ii) to promptly attempt to cure any such defects before Closing. The selling Party's failure to send written notice to the purchasing Party within such ten (10) day period electing to either not cure or attempt to cure such defects shall be deemed an election by the selling Party not to cure such defects. If the selling Party refuses to cure such defects the purchasing Party shall elect as its sole remedy to either: (i) terminate this Contract by giving written notice thereof to the selling Party, in which event no party hereto shall have any further rights, duties or obligations hereunder; or (ii) accept the survey to the Property subject to the defects without adjustment to the Purchase Price and proceed to Closing as set forth herein.

1.13 INTENTIONALLY OMITTED

1.14 Utilities. The Parties shall confirm the availability of any and all utilities servicing the Property, including, without limitation, public water, sanitary sewer, storm sewer, electric, natural gas, and telephone and that each such utility service has sufficient capacity to serve the intended use by the Parties.

1.15 Existing Leases. The Parties will not amend, modify, extend, alter or terminate any existing lease, contract or agreement affecting the Property, or enter into any new lease, contract or agreement affecting the Property during the term of this Agreement.

Notwithstanding this prohibition, the Parties will be permitted to extend any expired or expiring lease on a month to month basis.

1.16 Flood Determination. The Parties shall confirm that the Property is not within the 100-year flood plain as established by FEMA.

1.17 INTENTIONALLY OMITTED

1.18 Closing Date. Closing shall be on or before fifteen (15) days following the end of the Inspection Period.

1.19 Closing Location. Closing shall take place at Hulsey, Oliver & Mahar, LLP or at such other location as chosen by the City.

1.20 Title. There shall be conveyed at closing, good and marketable, fee simple title to the Property by limited warranty deed. Good and marketable fee simple title is hereby defined as title which is insurable by First American Title Insurance Company at its standard rates on an ALTA Owner's Policy. The Property shall be described according to survey obtained pursuant to Section 1.12 above.

1.21 AHP's Obligations at Closing. At Closing, AHP, at its sole cost and expense, shall deliver to the City the following:

a) Limited Warranty Deed in recordable form conveying good, marketable and insurable title to Tract Two;
b) A Non-Foreign Affidavit;
c) Seller's Affidavit acceptable to the City's title insurance company;
d) Affidavit allowing the City to properly comply with 1099 reporting requirements;
e) Certification that there are no existing leases encumbering all or any portion of Tract Two;
f) Written confirmation that any and all management and service contracts have been terminated, or assigned to the City, at the City's sole election; and
g) An executed closing statement (the "Closing Statement") setting forth in reasonable detail the financial transaction contemplated by this Agreement, including without limitation the Purchase Price, all prorations, the allocation of costs specified herein, and the source, application and disbursement of all funds. The City shall be responsible for preparing the Closing Statement.

1.22 The City's Obligations at Closing. At Closing, the City, at its sole cost and expense, shall deliver to AHP the following:

a) Immediately available funds payable to AHP representing the cash portion of the Purchase Price, prorations and other items reflected on the closing statements;
b) Such documents as are reasonably required to fully authorize the purchase of Tract Two by the City and execution of all Closing documents;

c) Limited Warranty Deed in recordable form conveying good, marketable and insurable title to Frontage Tract;
d) Seller's Affidavit acceptable to AHP's title insurance company;
e) Certification that there are no existing leases encumbering all or any portion of Frontage Tract;
f) An agreement for the City to provide all of the required future development stormwater runoff detention capacity for Tract One and Frontage Tract in the detention pond the City constructs to handle stormwater runoff for Tract Two;
g) An agreement for the City to provide a sewer tap and connection, water tap, and meter at no cost to AHP for Tract One at such time as the City installs sewer and water lines for development on Tract Two;
h) An Agreement providing inter-parcel access and an access easement in favor of AHP on Tract One and Frontage Tract across City Property via the driveway the City constructs to serve City Property and Tract Two; and
i) The Closing Statement.

1.23 Costs. The purchasing Party shall pay all costs and fees related to any title policy, title commitment, survey, appraisal, environmental audits and the recording of the deed. The selling Party shall pay any real estate transfer tax associated with the conveyance that may be imposed on the transaction. AHP and the City shall pay the fees of their own attorneys for services related to the preparation and negotiation of this Agreement and the purchase and sale of the Property.

1.24 Prorations. Ad valorem taxes on the Property for the year of closing shall be prorated at Closing, effective as of the Closing Date, based on actual amounts, if known, and if not, then on the best available estimates thereof. If tax assessments for the Property for the current year are unavailable as of the Closing Date, said ad valorem taxes shall be prorated or adjusted based upon the immediately preceding tax year figures. The parties shall cooperate to transfer all utility services to the Property, effective as of the Closing Date; provided, however, the selling Party will be responsible for all charges applicable to the period prior to the Closing Date, and the purchasing Party shall be responsible for all charges applicable to the period from and after the Closing Date. All taxes, assessments and charges due and payable with respect to the Property after Closing shall be the responsibility of the purchasing Party. The provisions of this Article shall survive closing.

Additionally, any and all rents and other operating expenses, if any, will be pro-rated at closing.

1.25 General Obligations of the Parties. At Closing the Parties shall cause to be delivered such other instruments and documents as may be reasonable, necessary and appropriate to complete the Closing of this transaction.

1.26 Possession. AHP agrees to deliver possession of Tract Two to the City on the Closing Date and after consummation and funding of the transaction described herein.

The City agrees to deliver possession of Frontage Tract to AHP on the Closing Date and after consummation and funding of the transaction described herein.

1.27 Default by the City. If the City fails to perform any of its obligations under this Agreement for any reason other than AHP's default or the permitted termination of this Agreement by either of the Parties as herein expressly provided, AHP shall be entitled, as its sole remedy, to terminate this Agreement.

1.28 Default by AHP. In the event that AHP fails to perform any of its obligations under this Agreement for any reason other than the City's default or the permitted termination of this Agreement by the Parties as herein expressly provided, the City shall be entitled, as its sole remedy to seek to enforce specific performance of AHP's obligation to do all things reasonably necessary to execute the documents required by this Agreement and to convey title to Tract Two to the City. The City shall be deemed to have elected to terminate this Agreement if the City fails to file suit for specific performance against AHP on or before thirty (30) days following the date upon which Closing was to have occurred.

1.29 Condemnation. If, at any time prior to the Closing, any action or proceeding is filed or threatened under which the Property, or any portion thereof, may be taken pursuant to condemnation, then, at the option of either of the Parties: (a) this Agreement shall terminate, and no party hereto shall have any further rights, liabilities or obligations hereunder; or (b) this Agreement shall remain in full force and effect, and the selling Party, at the time of closing hereunder, shall transfer and assign to the purchasing Party all of the selling Party's right, title and interest in and to any proceeds received or which may be received by reason of such taking, or a sale in lieu thereof, said option to be exercisable by the purchasing Party by delivering to the selling Party written notice of such exercise on or before the fifteenth (15th) day following the date on which the purchasing Party receives from the selling Party written notice that such suit has been filed or is threatened, but in no event later than the date of closing hereunder. If the purchasing Party fails to exercise said option within said fifteen (15)-day period, then the Purchasing Party shall be deemed to have elected the alternative set forth in subsection (a) above.

1.30 Commissions. AHP and the City each warrant and represent to the other that such party has not employed a real estate broker or agent in connection with the transaction contemplated hereby. Each party agrees to indemnify and hold the other harmless from any loss or cost suffered or incurred by it as a result of the other's representation herein being untrue. This provision shall survive the Closing or any termination of this Agreement.

1.31 Assignment. Neither party may assign this Agreement without the prior written consent of the other. Any such prohibited assignment shall be void. Notwithstanding the foregoing, either of the Parties shall entitled to assign the rights of either of the Parties to another entity controlled by the same owners created for the purpose of this transaction.

1.32 Entire Agreement. This Agreement embodies the entire agreement of the Parties and can be modified or varied only by a written instrument subscribed to by all of the Parties.

1.33 Time of Essence. Time is of the essence of this Agreement.

1.34 Notices. Any notice, request, demand, instruction, or other communication to be given to either party hereunder, except those required to be delivered at Closing, shall be in writing, and shall be deemed to be delivered upon receipt, if hand delivered or delivered by overnight delivery service, or upon deposit in certified mail, return receipt requested, addressed as follows:

If to the City:
City of Gainesville
Attention: Bryan Lackey
300 Henry Ward Way
Gainesville, GA 30501
Phone 770-535-6860
Email: blackey@gainesville.org

With a copy to:
Hulsey, Oliver and Mahar, LLP
Attention: Abbott S. Hayes, Jr.
200 E. E. Butler Parkway
Gainesville, GA 30501
Phone: 770-532-6312
Email: ash@homlaw.com

If to Seller:
America's Home Place, Inc.
Attention: Keith Brown
2144 Hilton Dr.
Gainesville, GA 30501
kbrown@americashomeplace.com

With a copy to:
James M. Walters
311 Green St., Suite 103
Gainesville, GA 30501
jim@thewaltersfirm.com

1.35 Change of Address. The addresses and addressees for the purpose of this Article may be changed by either of the Parties by giving notice of such change to the other Party in the manner provided for giving notice.

1.36 Captions. The captions used in connection with the paragraphs of this Agreement are for convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Agreement, or be used as interpreting the meanings and provisions hereof.

1.37 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

1.38 Responsibility to Cooperate. The Parties agree to take all actions and do all things reasonably necessary to fulfill the terms and conditions of this Agreement in good faith and in a timely manner. The Parties shall execute and deliver such certifications, affidavits, and statements as are required at closing to meet the requirements of any lender(s) and of federal and state law.

1.39 Construction. The Parties acknowledge that their attorneys have reviewed and negotiated the provisions of this Agreement; therefore, the rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

1.40 Governing Law. This Agreement shall be construed and interpreted under the laws of the State of Georgia, without regard to any conflicts of law doctrine of such state.

1.41 Counterparts. This Agreement may be executed in any number of counterparts which together shall constitute the Agreement of the Parties.

1.42 Special Stipulations. The following Special Stipulations, if conflicting with any exhibit, addendum or preceding paragraph (including changes thereto made by the parties), shall control: This Agreement is contingent on AHP, within forty-five (45) days of the Effective Date, obtaining an agreement to remove the easement held by Georgia Wildlife Federation as set forth in that document recorded in Deed Book 6238, Page 540, Hall County, Georgia Deed Records.

IN WITNESS WHEREOF, this instrument has been executed in multiple copies of the dates set forth below, and each executed copy shall be deemed an original for all purposes.
Purchaser:

CITY OF GAINESVILLE

By: _____
Bryan Lackey, City Manager

Attest: _____ Date: _____
Denise O. Jordan, City Clerk

CITY SEAL

Approved as to form:

_____
Abbott Swift Hayes, Jr.

Date: _____

AMERICA'S HOME PLACE, INC.

By: _____
Barry G. Conner, CEO

Attest: _____ Date: 6-28-19

ASH/w220221

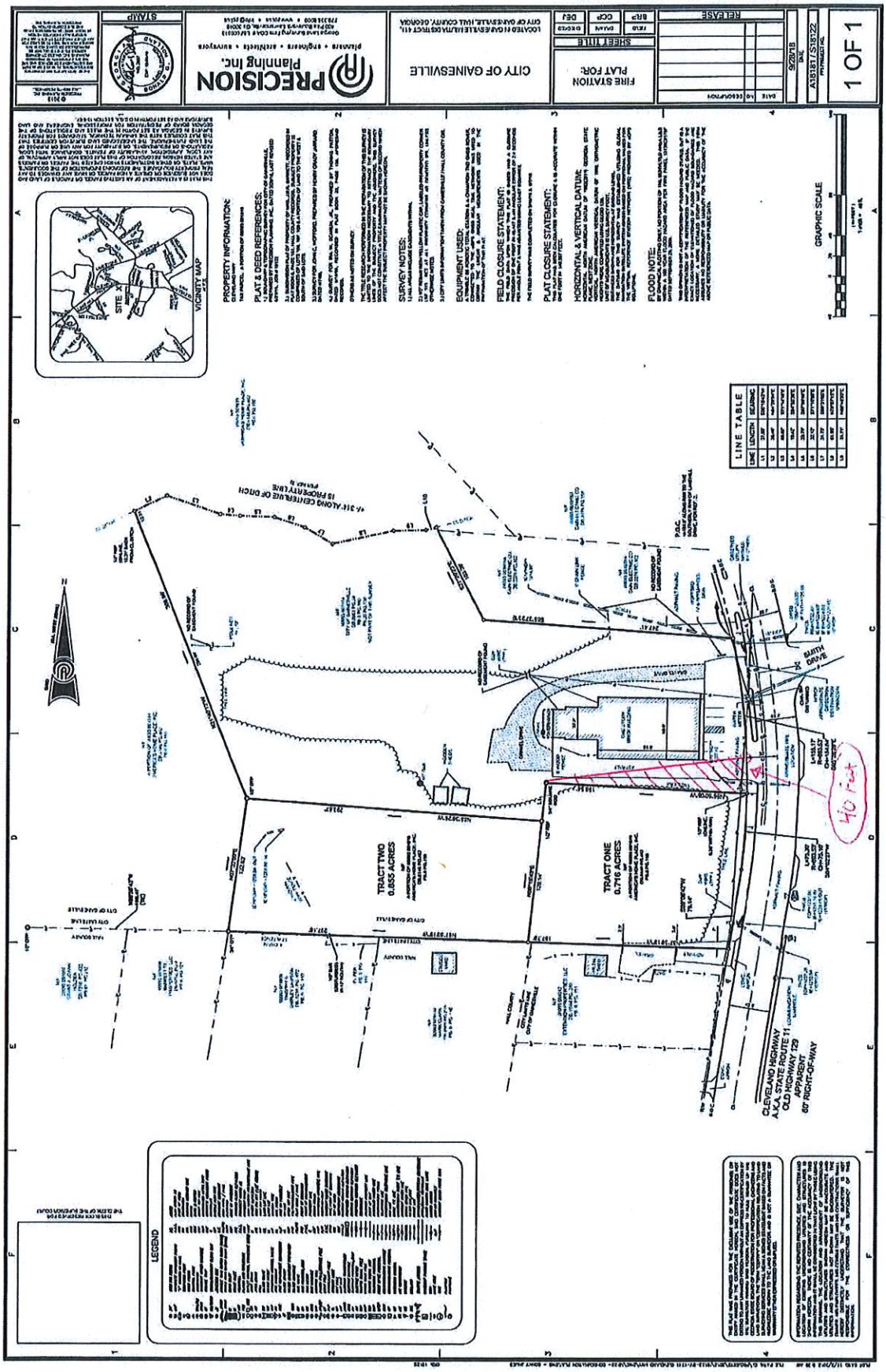

PRECISION Planning Inc.
CITY OF GAINESVILLE
FIRE STATION PLAT FOR:
SHEET TITLE
RELEASE
1 OF 1
PROPERTY INFORMATION:
PLAT & DEED REFERENCES:
SURVEY NOTES:
EQUIPMENT USED:
FIELD CLOSURE STATEMENT:
PLAT CLOSURE STATEMENT:
HORIZONTAL & VERTICAL DATUM:
FLOOD NOTE:
GRAPHIC SCALE
VICINITY MAP
LINE TABLE
TRACT TWO 0.855 ACRES
TRACT ONE 0.716 ACRES
CLEVELAND HIGHWAY A.K.A. STATE ROUTE 11 OLD HIGHWAY 129 APPROXIMATE 80' RIGHT-OF-WAY
LEGEND
40 feet

Exhibit A

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/8/2019

Presenter: Bryan Lackey

Item of Business: BR-2019-30 Assignment of Airport Leases to Boehringer Ingelheim Animal Health USA, Inc. and Authorization of Access and Parking Easements

Meeting Date: 8/20/2019

Purpose of Request:

To approve the assignment of Airport Leases to Boehringer Ingelheim Animal Health USA and the authorization of easements.

History/Background:

The current lessees request the leases be reassigned to Boehringer Ingelheim Animal Health USA.

Facts & Issues for Consideration:

We have reviewed all leases and easement exhibits and everything is in order.

Department Recommendation:

Adopt the resolution.

Department Director:

Chris Rotalsky

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

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
BR-2019-30 Assignment of Airport leases to Boehringer Ingelheim Animal Health USA, Inc. and Authorization of Easements	Resolution
Easement Agreement	Contract/Agreement/MOU
Easement Exhibits	Attachments/Exhibits

RESOLUTION BR-2019-30

Assignment of Airport Leases to Boehringer Ingelheim Animal Health USA, Inc. and Authorization of Access and Parking Easements

WHEREAS, the City of Gainesville entered into the following lease agreements for the following tracts in the Airport Industrial Park (hereinafter referred to as "AIP"):

(a) Lease with J&B Enterprises, a partnership comprised of James M. Wilkins, Jr., Clyde S. Wilkins, and Bill Holcomb dated December 29, 1983, for Lot A7A

(b) Lease with Fastco Corporation dated July 20, 2009, for a portion of Lot A8

(c) Lease with Select Laboratories, Inc. dated April 22, 1974, for a portion of Lot A9

(d) Lease with J.C. Fricks dated May 15, 1974, for a portion of Lots A9 and A10

(e) Lease with Walter R. Cooper dated August 6, 1975, for a portion of Lots A10 and A11

(f) Lease with City Ice Company dated December 20, 1977, for a portion of Lot A11

(g) Lease with Select Laboratories, Inc. dated July 18, 1980, for a portion of Lots A11 and A12

(h) Lease with J and S Farms, Inc. dated November 16, 1982 for a portion of Lot A16

(all of the aforementioned leases hereinafter referred to collectively as "the Leases"); and

WHEREAS, the current lessees under the Leases have notified the City of their request that the City approve the assignment of the Leases to Boehringer Ingelheim Animal Health USA, Inc. (hereinafter referred to as "BIAH"); and

WHEREAS, the City has the desire to approve the requests from the lessees under the Leases; and

WHEREAS, the City needs access and parking over a portion of AIP lots leased by BIAH to provide access to certain airplanes that are parked at the Lee Gilmer Airport; and

WHEREAS, the City and BIAH desire to enter into the attached Access and Parking Easements Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT the governing body for the City of Gainesville hereby approves the assignment of the leases to BIAH; and

BE IT FURTHER RESOLVED THAT the governing body for the City of Gainesville hereby approves the attached Access and Parking Easements Agreement; and

BE IT FURTHER RESOLVED THAT the governing body for the City of Gainesville hereby authorize the Mayor, City Manager, and City Attorney to sign such documents as necessary to effectuate the approval set forth in the preceding paragraphs of this Resolution.

RESOLUTION BR-2019-30

Assignment of Airport Leases to Boehringer Ingelheim Animal Health USA, Inc. and Authorization of Access and Parking Easements

Adopted this _____ day of _____, 2019.

_____

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

Return to:
J. Randall Frost
Stewart, Melvin & Frost, LLP
P. O. Box 3280
Gainesville, GA 30503

ACCESS AND PARKING EASEMENTS AGREEMENT

This ACCESS AND PARKING EASEMENTS AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2019, by and between BOEHRINGER INGELHEIM ANIMAL HEALTH USA, INC., Party of the First (hereinafter called "BIAH") and the CITY OF GAINESVILLE, GEORGIA, Party of the Second Part (hereinafter called the "City").(the City and BIAH are sometimes collectively called the "Parties" and individually called a "Party").

WITNESSETH:

WHEREAS, the City is the owner of the property known as 1112 Airport Parkway (Lot A-7A, Airport Industrial Park) and the property known as 1120 Airport Parkway (Lot A-8, Airport Industrial Park) (hereinafter collectively called the "Airport Parkway Lots"); and

WHEREAS, the City leases the Airport Parkway Lots to BIAH; and

WHEREAS, the City needs access and parking over a portion of the Airport Parkway Lots to provide access to certain airplanes that are parked at the Lee Gilmer Airport; and

WHEREAS, the Parties desire to enter into an agreement for the grant of a perpetual, nonexclusive access and parking easement over the Airport Parkway Lots;

NOW, THEREFORE, in consideration of the foregoing premises, which are incorporated into and shall be deemed to be a part of this Agreement, the covenants and agreements hereinafter set forth, the sum of TEN and NO/100 DOLLARS ($10.00) cash in hand paid by each Party hereto to the other, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. BIAH does hereby grant, assign and convey to the City a non–exclusive perpetual (as long as BIAH leases and/or owns the Airport Parkway Lots) right, privilege and easement over, through and across the real property described on Exhibit "A" as Tracts # 1 and # 2, attached hereto and by reference made a part hereof for the purpose of ingress and egress,

vehicular and pedestrian, from and to Airport Parkway to and from the northern boundary line of the property known as the Lee Gilmer Airport and for the purpose of parking in parking spaces to be constructed on Tract # 2 (the "Driveway and Parking Spaces"). The Driveway and Parking Spaces are shown on Exhibit "B" attached hereto and made a part hereof.

2. BIAH agrees to construct the Driveway and Parking Spaces, at its cost and expense, in accordance with plans and specifications approved by the City.

3. BIAH agrees, at its cost and expense, to move the existing security gate to a location on the Driveway that is mutually acceptable to the Parties.

4. BIAH reserves the right to use the Driveway for ingress and egress, pedestrian and vehicular from and to its property and Airport Parkway.

5. The Parties shall not obstruct or restrict the use of any portion of the Driveway or Parking Spaces, from Airport Parkway to the security gate, except in the case of an emergency or short periods of time for maintenance and repairs.

6. The City shall have the sole right to control the security gate and access from the security gate to the parking spaces and Lee Gilmer airport.

7. No buildings or other structures of any kind can be placed on the Driveway, with the exception of the aforementioned security gate.

8. The City shall be responsible for cleaning, maintaining, repairing and if necessary, replacing the security gate and the area from the security gate to the Lee Gilmer Airport property, including but not limited to, the asphalt pavement.

9. BIAH shall be responsible for cleaning, maintaining, repairing and if necessary, replacing the area from Airport Parkway to the security gate, including but not limited to, the asphalt pavement.

10. In the event of a default by either Party under this Agreement in the observance or performance of any of the covenants or other provisions of this Agreement to be observed or performed by such Party, if such default is not cured within sixty (60) days after written notice to defaulting Party (or if such default is incapable of cure within such 60-day pe1iod and defaulting Party commences to cure within such 60-day pe1iod and thereafter diligently and continuously takes action to effect a cure), the non-defaulting Party shall have the following remedies: (a) to cure, if capable of cure, the breach by the defaulting Party, with the right of reimbursement from the defaulting Party for all reasonable costs and expenses incurred in connection with such cure, including reasonable legal fees; (b) an action for specific performance and/or injunction; and (c) an action for actual damages. No breach of this Agreement shall entitle any party to consequential, incidental, economic, treble or punitive damages or to cancel, rescind, or otherwise terminate this Agreement or terminate the use of the easements granted hereunder,

but such limitation shall not affect in any manner any other rights or remedies which such Party may have by reason of any breach of this Agreement.

11. All notices and other communications required or permitted under this Agreement shall be in writing and shall be (a) personally delivered, (b) deposited with a nationally recognized overnight delivery service that routinely issues receipts, or (c) given by registered or certified mail. Any such notice or other communication shall be effective when such notice is delivered to the addresses set forth below and received or refused by the addressee:

To City: Airport Manager
300 Henry Ward Way
Gainesville, GA 30501

With a Copy to: Abbott S. Hayes, Jr.
Hulsey, Oliver & Mahar, LLP
200 E.E. Butler Pkwy
Gainesville, GA 30501

To BIAH: Boehringer Ingelheim Animal Health USA Inc.
1112 Airport Parkway
Gainesville, GA 30501
Attn: Site Director

With a Copy to: Boehringer Ingelheim Animal Health USA Inc.
3239 Satellite Boulevard
Duluth, GA 30096
Attn: General Counsel

Any Party, by ten (10) days' prior written notice given as set forth above, may change the address to which future notices or other communications intended for such Party shall be sent.

12. No provision or term of this Agreement may be amended, modified, revoked, supplemented, waived, or otherwise changed except by a written instrument duly executed by the Parties hereto or such others as may from time to time own an interest in the respective Properties.

13. If any action is commenced between the Parties concerning this Agreement or for the enforcement of rights and duties of any Party pursuant to this Agreement, the court shall award the substantially prevailing Party in the action its reasonable attorneys' fees in addition to any other relief that may be granted.

14. The terms and conditions of this Agreement the Easement bind and inure to the benefit of the Parties, and their respective successors, assigns and personal representatives. The easements granted herein shall constitute covenants running with the land and shall bind each Party's Property described herein and inure to the benefit of and be binding upon the Parties, their grantees, and respective successors and assigns, successors in title and any persons claiming by, through or under them.

15. This Agreement resulted from review and negotiations between the Parties and their attorneys. This Agreement will be construed to have been drafted by all of the Parties so that the rule of construing ambiguities against the drafter will have no force or effect.

16. This Agreement and the entire relationship between the parties shall be governed by and construed under the laws of the State of Georgia, without regard to the conflicts of law principles of such State.

17. Time is of the essence in the performance of this Agreement.

18. City and BIAH agree that nothing contained in this Agreement is intended to or shall be construed to establish City and BIAH as joint venturers or partners, or to establish or create a fiduciary relationship or agency between the City and BIAH.

19. This Agreement represents the complete and entire understanding and agreement between and among the parties hereto with regard to all matters involved in the Driveway and Parking Easements described herein and supersedes any and all prior to contemporaneous agreements, whether written or oral. No covenants, agreements, terms, provisions, warranties, statements, representations or undertakings, whether written or oral, made or executed by any party hereto shall be binding on any party hereto, unless specifically set forth or incorporated in this Agreement.

IN WITNESS WHEREOF the Parties by and through its authorized representatives have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered
in the presence of:

_____
Unofficial Witness

_____
Notary Public
My Commission Expires: _____
(Notary Seal)

BOEHRINGER INGELHEIM ANIMAL HEALTH USA, INC.

By: _____
Title: _____

Attest: _____
Title: _____

Signed, sealed and delivered
in the presence of:

_____
Unofficial Witness

_____
Notary Public
My Commission Expires:_____
(Notary Seal)

CITY OF GAINESVILLE, GEORGIA

By: _____
Bryan Lackey, City Manager

Attest: _____
Denise O. Jordan, City Clerk

Approved as to form:

_____
Abbott S. Hayes, Jr., City Attorney

EXHIBIT "A"

Legal Description
Tract #1

All that tract or parcel of land lying and being in Land Lot 167, 9th District & G.M.D. 411, City of Gainesville, Hall County, Georgia, and being more particularly described as follows:

BEGINNING at the southern right-of-way intersection of Airport Parkway (30' right-of-way) with the southern right-of-way Queen City Parkway (right-of-way varies); thence South 64°26'37" West, a distance of 1,273.75 feet to a point located on the southern right-of-way of Airport Parkway (30' right-of-way) being the POINT OF BEGINNING for Tract #1; thence leaving said right-of-way the following courses and distances: South 18°32'44" West, a distance of 170.95 feet to a point; thence South 64°04'34" West, a distance of 37.84 feet to a point; thence South 18°32'44" West, a distance of 67.23 feet to a point; thence South 43°18'29" East, a distance of 30.86 feet to a point; thence South 18°24'59" West, a distance of 19.02 feet to a point; thence North 70°44'36" West, a distance of 38.40 feet to an iron pin found (1/2"rebar); thence North 17°00'27" East, a distance of 128.10 feet to a point; thence North 64°04'34" East, a distance of 16.23 feet to a point; thence North 18°32'44" East, a distance of 165.90 feet to a point located on said right-of-way of Airport Parkway; thence along said right-of-way along a curve to the Left for an arc distance of 31.01 feet, said curve having a chord bearing of South 57°21'08" East and a chord distance of 30.93 feet and a radius of 129.05 feet to a point, being the POINT OF BEGINNING for Tract #1.

Said tract contains 0.184 acre or 8,001 square feet.

Legal Description
Tract #2

All that tract or parcel of land lying and being in Land Lot 167, 9th District & G.M.D. 411, City of Gainesville, Hall County, Georgia, and being more particularly described as follows:

BEGINNING at the southern right-of-way intersection of Airport Parkway (30' right-of-way) with the southern right-of-way Queen City Parkway (right-of-way varies); thence South 64°26'37" West, a distance of 1,273.75 feet to a point located on the southern right-of-way of Airport Parkway (30' right-of-way) being the POINT OF BEGINNING for Tract #1; thence along said right-of-way along a curve to the Right for an arc distance of 31.01 feet, said curve having a chord bearing of North 57°21'08" West and a chord distance of 30.93 feet and a radius of 129.05 feet to a point; thence leaving said right-of-way South 18°32'44" West, a distance of 165.90 feet to a point; thence South 64°04'34" West, a distance of 16.23 feet to a point being the POINT OF BEGINNING for Tract #2; thence South 17°00'27" West, a distance of 128.10 feet to an iron pin found (1/2" rebar); thence North 72°40'18" West, a distance of 90.80 feet to a point; thence North 17°17'36" East, a distance of 30.35 feet to a point; thence along a curve to the Right for an arc distance of 24.50 feet, said curve having a chord bearing of North 40°41'05" East and a chord distance of 23.82 feet and a radius of 30.00 feet to a point; thence North 64°04'34" East, a distance of 110.74 feet to a point, being the POINT OF BEGINNING for Tract #2.

Said tract contains 0.178 acre or 7,747 square feet.

EXHIBIT "B"

THIS BOX RESERVED FOR
THE CLERK OF THE SUPERIOR COURT

AIRPORT ACCESS EASEMENT EXHIBIT
FOR
LEE GILMER AIRPORT
CITY OF GAINESVILLE

LOCATED IN:
LAND LOT 167, 9th DISTRICT, G.M.D. 411
CITY OF GAINESVILLE
HALL COUNTY, GEORGIA

ENGINEER / SURVEYOR:
ROCHESTER & ASSOCIATES, INC.
425 OAK STREET, N.W.
GAINESVILLE, GEORGIA 30501
(770) 718-0600
SURVEYOR: KEDRICK C. SCOTT, P.E., R.L.S.
ENGINEER: KEDRICK C. SCOTT, P.E., R.L.S.

OWNER:
CITY OF GAINESVILLE
GAINESVILLE, GEORGIA 30501
24 HR. CONTACT: BRYAN LACKEY
(770) 535-6865

TRACT #1:	8,001 SF 0.184 AC
TRACT #2:	7,747 SF 0.178 AC

SURVEYOR'S CERTIFICATE

This survey is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS SURVEY DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. 15-6-67.

6/27/19
DATE

REGISTERED GEORGIA LAND SURVEYOR
Kendrick C. Scott, GA RLS# 2831
ROCHESTER & ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION NO. – LSF000484
Email: kcscott@rochester-assoc.com

GEORGIA REGISTERED No. 2831 6/27/19 LAND SURVEYOR KEDRICK C. SCOTT

SHEET	OF
1	2

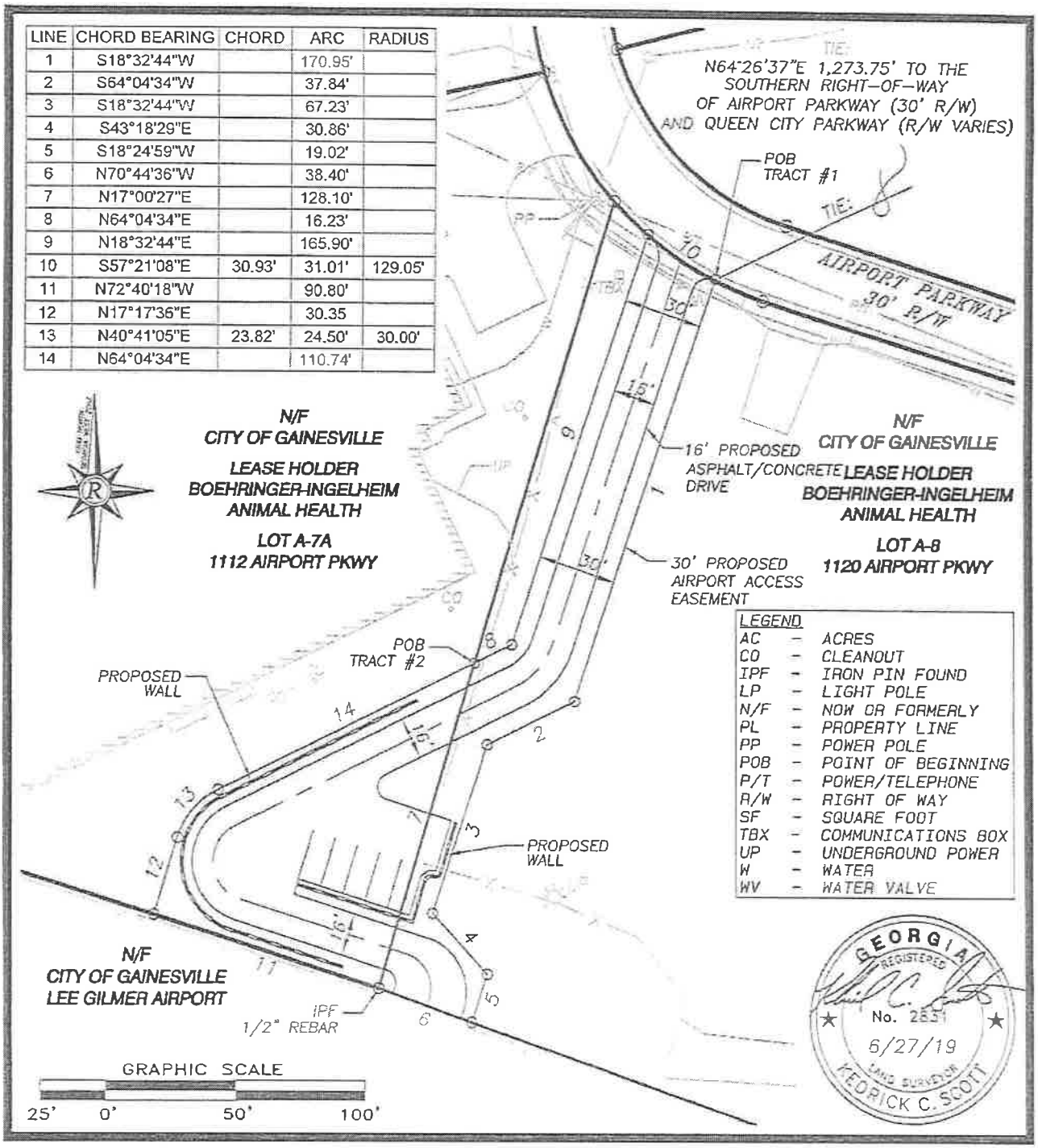
DATE: 06/27/19
SCALE: N.T.S.
JOB# G20E005.SAP
FILE# *ESMT.dwg
DRAWN BY WCD

AIRPORT ACCESS EASEMENT EXHIBIT
FOR:
LEE GILMER AIRPORT
CITY OF GAINESVILLE
LOCATED IN:
LAND LOT 167, 9th DISTRICT, G.M.D. 411
CITY OF GAINESVILLE
HALL COUNTY, GEORGIA

Rochester & Associates, Inc.
425 Oak Street N.W.
Gainesville, Georgia 30501
(770)718.0600 (770)718.9090 Fax
www.rochester-assoc.com

EXHIBIT "B"

LINE	CHORD BEARING	CHORD	ARC	RADIUS
1	S18°32'44"W		170.95'	
2	S64°04'34"W		37.84'	
3	S18°32'44"W		67.23'	
4	S43°18'29"E		30.86'	
5	S18°24'59"W		19.02'	
6	N70°44'36"W		38.40'	
7	N17°00'27"E		128.10'	
8	N64°04'34"E		16.23'	
9	N18°32'44"E		165.90'	
10	S57°21'08"E	30.93'	31.01'	129.05'
11	N72°40'18"W		90.80'	
12	N17°17'36"E		30.35	
13	N40°41'05"E	23.82'	24.50'	30.00'
14	N64°04'34"E		110.74'	



SHEET	OF
2	2

DATE: 06/27/19
SCALE: 1"=50'
JOB# 0205005.SAP
FILE# *ESMT.dwg
DRAWN BY WCD

AIRPORT ACCESS EASEMENT EXHIBIT
FOR:
LEE GILMER AIRPORT
CITY OF GAINESVILLE
LOCATED IN:
LAND LOT 167, 9th DISTRICT, G.M.D. 411
CITY OF GAINESVILLE
HALL COUNTY GEORGIA

Rochester & Associates, Inc.
425 Oak Street N.W.
Gainesville, Georgia 30501
(770)718.0600 (770)718.9090 Fax
www.rochester-assoc.com

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/11/2019

Presenter: Bryan Lackey

Item of Business: BR-2019-31 Authorization to Execute SPLOST VIII Intergovernmental Agreement

Meeting Date: 8/20/2019

Purpose of Request:

The purpose of this resolution is to authorize the City of Gainesville to enter into an intergovernmental agreement with Hall County and other municipalities located wholly or in part in Hall County regarding referendum question to be placed before the voters during the November 2019 election as it pertains to SPLOST (Special Purpose Local Option Sales Tax) VIII.

History/Background:

Gainesville and Hall County entered into a similar agreement for SPLOST VII.

Facts & Issues for Consideration:

Department Recommendation:

Approval of the Resolution and authorization for the Mayor to sign the IGA.

Department Director:

Bryan Lackey

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

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
BR-2019-31 SPLOST VIII IGA	Resolution
IGA	Contract/Agreement/MOU

BUSINESS RESOLUTION 2019-31

INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2020 SPECIAL PURPOSE LOCAL OPTION SALES TAX FOR CAPITAL OUTLAY PROJECTS (SPLOST VIII)

A RESOLUTION TO AUTHORIZE THE CITY OF GAINESVILLE TO ENTER INTO AN AGREEMENT WITH HALL COUNTY, GEORGIA, THE CITY OF BUFORD, GEORGIA, THE CITY OF CLERMONT, GEORGIA, THE CITY OF FLOWERY BRANCH, GEORGIA, THE CITY OF GILLSVILLE, GEORGIA, THE CITY OF LULA, GEORGIA, THE CITY OF OAKWOOD, GEORGIA, THE CITY OF REST HAVEN, GEORGIA AND THE TOWN OF BRASELTON, GEORGIA PERTAINING TO VARIOUS CAPITAL OUTLAY PROJECTS TO BE UNDERTAKEN BY HALL COUNTY, GEORGIA AND THE MUNICIPALITIES, TO CREATE, UPGRADE AND IMPROVE WATER AND SEWER SERVICE FACILITIES, PUBLIC SAFETY AND FIRE SERVICE FACILITIES, ROAD AND STREET IMPROVEMENTS, AND RECREATIONAL FACILITIES, LIBRARY FACILITIES AND OTHER AUTHORIZED CAPITAL OUTLAY PROJECTS FOR THE BENEFIT OF THE RESIDENTS OF HALL COUNTY, WHICH PROJECTS WILL BE FUNDED BY HALL COUNTY, GEORGIA, THROUGH THE IMPLEMENTATION OF A SPECIAL PURPOSE LOCAL OPTION SALES TAX AS PERMITTED BY GEORGIA LAW; AND FOR OTHER RELATED PURPOSES.

WHEREAS, the City of Gainesville, Georgia (the "City" or "Gainesville"), is a body politic, existing and operating under the laws and Constitution of the State of Georgia with full power to enter into contracts and agreements with other political entities; and

WHEREAS, the City is an incorporated municipality located wholly within the geographical boundaries of the County; and

WHEREAS, Hall County, Georgia (the "County"), is a body politic, existing and operating under the laws and Constitution of the State of Georgia with full power to enter into contracts and agreements with other political entities; and

WHEREAS, the City of Buford, Georgia ("Buford") is an incorporated municipality located partially within the geographical boundaries of the County; and

WHEREAS, the City of Clermont, Georgia ("Clermont"), is an incorporated municipality located partially within the geographical boundaries of the County; and

WHEREAS, the City of Flowery Branch, Georgia ("Flowery Branch"), is an incorporated municipality located partially within the geographical boundaries of the County; and

WHEREAS, the City of Gillsville, Georgia ("Gillsville"), is an incorporated municipality located wholly with the geographical boundaries of the County; and

WHEREAS, the City of Lula, Georgia ("Lula"), is an incorporated municipality located wholly within the geographical boundaries of the County; and

WHEREAS, the City of Oakwood, Georgia ("Oakwood") is an incorporated municipality located wholly within the geographical boundaries of the County; and

WHEREAS, the City of Rest Haven, Georgia ("Rest Haven"), is an incorporated municipality located partially within the geographical boundaries of the County; and

BUSINESS RESOLUTION 2019-31

INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2020 SPECIAL PURPOSE LOCAL OPTION SALES TAX FOR CAPITAL OUTLAY PROJECTS (SPLOST VIII)

WHEREAS, the Town of Braselton, Georgia ("Braselton") is an incorporated municipality located partially within the geographical boundaries of the County; and

WHEREAS, collectively the residents of Buford, Clermont, Flowery Branch, Gainesville, Gillsville, Lula, Oakwood, Rest Haven and Braselton (hereinafter collectively referred to as the "Municipalities") who live in the County constitute more than half of all of the residents of the County who live within municipalities in the County; and

WHEREAS, the County desires to acquire, construct and equip certain county-wide level two projects within the County; and

WHEREAS, the Municipalities desire to improve or construct certain projects for the benefit of residents of the County and the Municipalities; and

WHEREAS, the County and the Municipalities deem it appropriate to enter into an intergovernmental agreement (the "Agreement") to undertake various capital outlay projects for the benefit of the citizens of the County and the Municipalities, which projects are to be funded with proceeds of a Special Purpose Local Option Sales Tax; and

WHEREAS, the County and the Municipalities desire to fund the capital outlay projects and the roads and streets through implementation of a Special Purpose Local Option Sales Tax as permitted by Georgia law.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY FOR THE CITY OF GAINESVILLE, GEORGIA, AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The execution, delivery and performance of the Agreement by the City is hereby authorized and approved. The Mayor of the City is hereby authorized to execute the Agreement in the name of and on behalf of the City with his signature attested by the Clerk of the City. The seal of the City shall be affixed to the Agreement by the Clerk of the City.

2. The Mayor of the City and the Clerk of the City are hereby further authorized to execute all certificates, statements, assurances and other documents and papers required of them or either of them under the terms of the Agreement or which may otherwise reasonably be required of them to carry out the purposes and intent of the Agreement and this Resolution.

RESOLVED, ADOPTED AND APPROVED THIS ____ day of _____, 2019.

BUSINESS RESOLUTION 2019-31

INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2020 SPECIAL PURPOSE LOCAL OPTION SALES TAX FOR CAPITAL OUTLAY PROJECTS (SPLOST VIII)

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

STATE OF GEORGIA
COUNTY OF HALL

INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2020 SPECIAL PURPOSE LOCAL OPTION SALES TAX FOR CAPITAL OUTLAY PROJECTS

THIS AGREEMENT is made and entered this the _____ day of _____, 2019, by and between **Hall County,** a political subdivision of the State of Georgia (the "County"), and the **Town of Braselton,** the **City of Buford,** the **City of Clermont,** the **City of Flowery Branch,** the **City of Gainesville,** the **City of Gillsville,** the **City of Lula,** the **City of Oakwood,** and the **City of Rest Haven,** all municipal corporations of the State of Georgia (the "Municipalities," individually and collectively).

WITNESSETH:

WHEREAS, O.C.G.A. § 48-8-110 et seq. (the "SPLOST Law"), authorizes the levy of a one percent County Special Purpose Local Option Sales Tax (the "SPLOST" or "SPLOST VIII") for the purpose of financing capital outlay projects for the use and benefit of the County and qualified municipalities within the County; and

WHEREAS, the County and Municipalities met to discuss possible projects for inclusion in the SPLOST referendum on the 10th day of December, 2018 in conformance with the requirements of O.C.G.A. § 48-8-111(a); and

WHEREAS, the Hall County Board of Commissioners has specified certain level two county-wide projects (the "Level Two Projects") as authorized by O.C.G.A. § 48-8-115(b)(2)(A)(ii), which Level Two Projects are set forth on **Exhibit A** hereto, and the total estimated cost of the Level Two Projects is $35,871,920, which is less than 20 percent of the proceeds of the SPLOST projected to be collected during the period of the SPLOST; and

WHEREAS, as authorized by O.C.G.A. § 48-8-115(b)(2)(A)(ii), $35,871,920 of the SPLOST proceeds projected to be collected, which is the total estimated cost of the Level Two Projects and is 16.5339% of the total SPLOST proceeds projected to be collected, are to be distributed to the County to pay the cost of the Level Two Projects; and

WHEREAS, the County and the Municipalities have negotiated a division of the remaining proceeds of the SPLOST as authorized by O.C.G.A. § 48-8-115(b)(2)(B).

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the Municipalities consent and agree as follows:

Section 1. Representations and Mutual Covenants.

A. The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

(i) The County is a political subdivision duly created and organized under the Constitution of the State of Georgia;

(ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement;

(iii) This Agreement is a valid, binding, and enforceable obligation of the County; and

(iv) The County will take all actions necessary to call an election to be held in all voting precincts in the County on the 5th day of November, 2019, for the purpose of submitting to the voters of the County for their approval, the question of whether or not a SPLOST shall continue to be imposed on all sales and uses within the special district of Hall County for a period of twenty-four (24) quarters, commencing on the 1st day of July, 2020, to raise an estimated $216,960,000 to be used for funding the Level Two Projects and the projects specified in **Exhibit B** attached hereto.

B. Each of the Municipalities makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

(i) Each Municipality is a municipal corporation duly created and organized under the Laws of the State of Georgia;

(ii) The governing authority of each Municipality is duly authorized to execute, deliver and perform this Agreement;

(iii) This Agreement is a valid, binding, and enforceable obligation of each Municipality;

(iv) Each Municipality is a qualified municipality as defined in O.C.G.A. §48-8-110(4); and

(v) Each Municipality is located wholly or partially within the geographic boundaries of the special tax district created in the County.

C. It is the intention of the County and Municipalities to comply in all respects with O.C.G.A. § 48-8-110 et seq. (the "SPLOST Law") and all provisions of this Agreement shall be construed so as to ensure compliance with the SPLOST Law.

D. The County and Municipalities agree to promptly proceed with the acquisition, construction, equipping, and installation of the projects specified in **Exhibit A and B** of this Agreement and in accordance with the priority order referenced in Section 8 of this Agreement.

E. The County and Municipalities agree that each approved SPLOST project associated with this Agreement shall be maintained as a public facility and in public ownership. If ownership of a project financed pursuant to this Agreement is transferred to private ownership, the proceeds of the sale shall, for the purposes of this Agreement, be deemed excess funds and disposed of as provided under O.C.G.A. § 48-8-12l(g)(2), if necessary to comply with the SPLOST Law.

F. The County and Municipalities agree to maintain thorough and accurate records concerning receipt of SPLOST proceeds and expenditures for each project undertaken by the respective county or municipality as required in fulfilling the terms of this Agreement.

Section 2. Conditions Precedent.

A. The obligations of the County and Municipalities pursuant to this Agreement are conditioned upon the adoption of a resolution of the County calling for the imposition of the SPLOST in accordance with the provisions of O.C.G.A. § 48-8-11l(a).

B. This Agreement is further conditioned upon the approval of the proposed imposition of the SPLOST by the voters of the County in a referendum to be held in accordance with the provisions of O.C.G.A. § 48-8-11l(b) through (e).

C. This Agreement is further conditioned upon the collecting of the SPLOST revenues by the State Department of Revenue and transferring same to the County.

Section 3. Effective Date and Term of the Tax.

The SPLOST, subject to approval in an election to be held on November 5, 2019, shall continue for a period of six (6) years with collections beginning on July 1, 2020.

Section 4. Effective Date and Term of this Agreement.

This Agreement shall commence upon the date of its execution and shall terminate upon the later of:

(i) The official declaration of the failure of the election described in this Agreement;

(ii) The expenditure by the County and all of the Municipalities of the last dollar of money collected from the Special Purpose Local Option Sales Tax, net of proceeds allocated to pay the cost of the Level Two Projects, after the expiration of the Special Purpose Local Option Sales Tax; or

(iii) The completion of all projects described in **Exhibit B.**

Section 5. County SPLOST Fund; Separate Accounts; No Commingling.

A. A special fund shall be created by the County and designated as the 2020 Hall County SPLOST Fund. The County shall select a local, regional, or national bank which shall act as a depository and custodian of the SPLOST proceeds upon such terms and conditions as may be acceptable to the County.

B. Each Municipality shall create a special fund to be designated as the 2020 SPLOST Fund. Each Municipality shall select a local, regional, or national bank which shall act as a depository and custodian of the SPLOST proceeds received by each Municipality upon such terms and conditions as may be acceptable to the Municipality.

C. All SPLOST proceeds shall be maintained by the County and each Municipality in the separate accounts. Except as provided in Section 6, SPLOST proceeds shall not be commingled with other monies of the County or Municipalities and shall be used exclusively for the purposes detailed in this Agreement. No monies other than SPLOST proceeds shall be placed in such funds or accounts.

D. The County and each Municipality depository shall secure deposits of public funds using either the dedicated method or pooled method as required by law.

Section 6. Allocation and Disbursement of SPLOST Proceeds.

A. Upon receipt by the County of SPLOST proceeds collected by the State Department of Revenue, the County shall immediately deposit said proceeds in the SPLOST Fund. The monies in the SPLOST Fund shall be held and applied to the cost of acquiring, constructing, and installing the Level Two Projects and the County capital outlay projects listed in **Exhibit B** and as provided in Paragraph B of this Section.

B. The County, following each monthly deposit of the SPLOST proceeds in the SPLOST Fund, shall deposit $498,221.11 of the monthly SPLOST proceeds received into a sub-account of the County to pay the cost of the Level Two Projects, and shall disburse to each Municipality its pro-rata allocation of the remaining monthly SPLOST proceeds received, within thirty (30) days of the County's receipt of such SPLOST proceeds. The County shall expend the monies in such sub-account to construct, install, or disburse to municipalities for Level Two Projects. The proceeds received from the pro-rata allocation and for Level Two Projects by each Municipality shall be deposited in the separate funds established by each Municipality in accordance with Section 5 of this Agreement. In the event that the cost of a Level Two Project expended by a Municipality is less than the proceeds allocated for such Level Two Project, the excess monies shall be paid by such Municipality to the County for funding the remaining Level Two Projects in accordance with Exhibit A. The County and the Municipalities shall receive a pro-rata allocation of the remaining SPLOST proceeds, after the allocation for Level Two Projects, on a monthly basis in accordance with the table below. The aggregate net remaining SPLOST proceeds are estimated to be $181,088,080 over the six (6) year period.

Project	County/Municipality	Estimated Cost	Pro rata %
County projects (excluding the Level Two Projects)	Hall County	$ 126,315,093	69.7534%
Braselton projects	Town of Braselton	2,374,789	1.3114
Buford projects	City of Buford	1,427,155	0.7881
Clermont projects	City of Clermont	864,877	0.4776
Flowery Branch projects	City of Flowery Branch	6,792,614	3.7510
Gainesville projects	City of Gainesville	36,664,541	20.2468
Gillsville projects	City of Gillsville	220,746	0.1219
Lula projects	City of Lula	2,621,793	1.4478
Oakwood projects	City of Oakwood	3,768,262	2.0809
Rest Haven projects	City of Rest Haven	38,210	0.0211

Notwithstanding the foregoing, once the County has deposited the aggregate amount of $35,871,920 (the total estimated cost of the Level Two Projects) into the sub-account for the payment of the cost of the Level Two Projects, the County shall make no further deposits of SPLOST proceeds into such sub-account. As among the Level Two Projects, the County may allocate excess proceeds not needed for a particular Level Two Project, once satisfactorily completed, to one or more other Level Two Projects as determined by the County. In the event that the final, actual aggregate cost of the Level Two Projects is less than $35,871,920, any excess proceeds in such sub-account shall be disbursed in the same manner as the remaining SPLOST proceeds are to be disbursed as set forth in the table above.

Proceeds over and above the amount estimated in the resolution of the County calling for the SPLOST referendum (herein, "Excess Proceeds") shall be allocated in accordance with the table above and shall be used solely for the purposes listed herein. As permitted by O.C.G.A. §48-8-121(g)(2), each party shall expend its portion (determined using the percentages set forth in the table above) of Excess Proceeds from the SPLOST on one or more of its projects set forth in Exhibit B of this Agreement.

C. No project will be given preference in the funding and distribution process in such a way that the monthly distribution formula is affected.

D. Should any Municipality cease to exist as a legal entity before all funds are distributed under this Agreement, that Municipality's share of the funds subsequent to dissolution shall be paid to the County as part of the County's share, unless an act of the Georgia General Assembly makes the defunct Municipality part of another successor municipality. If such an act is passed, the defunct Municipality's share shall be paid to the successor Municipality in addition to all other funds to which the successor Municipality would otherwise be entitled.

Section 7. Projects.

All capital outlay projects, to be funded in whole or in part from the remaining SPLOST proceeds, net of proceeds allocated to pay the cost of the Level Two Projects, are listed in **Exhibit B** which is attached hereto and made part of this Agreement.

Section 8. Priority and Order of Project Funding.

Projects have equal priority and shall be fully or partially funded by a pro rata allocation of SPLOST proceeds and constructed concurrently in accordance with the schedule found in **Exhibit B** of this Agreement.

Section 9. Completion of Projects.

A. The County and Municipalities acknowledge that the costs shown for each project category described in **Exhibit B** are estimated amounts.

B. If a County project has been satisfactorily completed at a cost less than the estimated cost listed for that project in **Exhibit B,** the County may apply the remaining unexpended funds to any other County project in **Exhibit B.**

C. If a municipal project has been satisfactorily completed at a cost less than the estimated cost listed for that project in **Exhibit B,** the applicable Municipality may apply the remaining unexpended funds to any other project included for that Municipality in **Exhibit B.**

D. The County and Municipalities agree that each approved SPLOST project set forth on **Exhibits A and B** shall be completed or substantially completed within five (5) years of the termination of the SPLOST, subject to receipt of sufficient SPLOST proceeds to substantially complete all such SPLOST projects. Any SPLOST proceeds, net of proceeds allocated to pay the cost of the Level Two Projects, held by the County or a Municipality at the end of the five (5) year period shall, for the purposes of this Agreement, be deemed excess funds and disposed of as provided under O.C.G.A. § 48-8-12l(g)(2).

Section 10. Reserved.

Section 11. Citizen Review Committee.

A. The County and Municipalities shall establish a Citizen Review Committee within ninety (90) days after the November 5, 2019 referendum, if such referendum question is approved by the electors of Hall County.

B. This Intergovernmental Agreement supersedes all prior agreements, negotiations, and communications of whatever type, whether written or oral between the parties hereto with respect to the SPLOST VII Citizens Review Committee, and furthermore, clarifies the following:

(i) The Citizens Review Committee established within ninety (90) days after the November 5, 2019 referendum will review the expenditure of SPLOST VIII proceeds and the expenditure of SPLOST VII proceeds as approved by the voters of Hall County on March 17, 2015 (the "2015 Referendum").

(ii) The expenditure of SPLOST VIII proceeds for the projects described in **Exhibits A and B** hereto will be referred to for the remainder of this section as the "SPLOST Program".

C. The Citizen Review Committee will represent the interests of the residents of the County and its Municipalities and shall receive and review periodic status reports concerning all projects to be funded from the net proceeds of the SPLOST Program. The Committee shall review SPLOST projects of the County and Municipalities and shall invite the necessary staff, division directors, department heads, administrators, and appropriate third parties to provide project updates to the Committee.

D. The mission of the Citizen Review Committee is to ensure all Hall County and Municipal SPLOST Program projects will be reported and executed in an efficient, transparent, and fully accountable manner in keeping with the purposes of the overall SPLOST Program.

E. Hall County will provide appropriate staff, technical advisors, and meeting facilities to support the Committee's activities.

F. The County Administrator and City Managers or designee(s), as applicable, of the County and Municipalities to this Agreement shall appoint the members of the Committee based on the following methodology:

(i) The Citizens Review Committee shall be comprised of nine members, five members to be appointed by the County Administrator; two members to be appointed by the City Manager of the City of Gainesville; one member to be appointed by a majority of the City Managers or designees of the Cities of Buford, Braselton, Flowery Branch, Oakwood and Rest Haven; and one member to be appointed by a majority of the City Managers or designees of the Cities of Clermont, Gillsville, and Lula.

(ii) Each member shall serve a four (4) year term. Each committee member selected to serve shall be appointed or reappointed every four years by the County and Municipality officials as stated in Section 11, Paragraph F(i) above.

(iii) No individual who holds state, county, or city elected office shall be eligible to serve as a member of the Citizen Review Committee during the term of such elected office, and the position of any member shall be deemed vacant upon such member qualifying as a candidate for elected public office. A member may be removed from the Citizen Review Committee (with or without cause) by the appointing official(s). Vacancies which may occur on the Committee shall be filled for the remainder of the unexpired term in the same manner as original appointments.

(iv) Citizen Review Committee members are expected to serve with integrity and shall adhere to the highest ethical standards. Members who miss two consecutive meetings without reasonable cause or whose annual attendance drops below 50% shall be deemed to have vacated their seat on the Committee.

Section 12. Reserved.

Section 13. Audits and Other Required Reporting.

A. During the term of this Agreement, the distribution and use of all SPLOST proceeds deposited in the SPLOST Fund and each Municipal SPLOST Fund shall be audited annually by an independent certified public accounting firm in accordance with O.C.G.A. § 48-8-121(a)(2). The County and each Municipality receiving SPLOST proceeds shall be responsible for the cost of their respective audits. The County and the Municipalities agree to cooperate with the independent certified public accounting firm in any audit by providing all necessary information.

B. Each Municipality and the County shall publish each of its annual audits as required by law.

C. Each Municipality and the County shall generate and publish all required reporting as required by the SPLOST Law.

Section 14. Notices.

All notices, consents, waivers, directions, requests, or other instruments or communications provided for under this Agreement shall be deemed properly given when delivered personally or sent by registered or certified United States mail, postage prepaid, as follows:

If to Hall County:	County Administrator Hall County P.O. Drawer 1435 Gainesville, GA 30503
If to the Town of Braselton:	Mayor Town of Braselton P.O. Box 306 Braselton, GA 30517
If to the City of Buford:	Chairman City of Buford 2300 Buford Highway Buford, GA 30518
If to the City of Clermont:	Mayor City of Clermont P.O. Box 257 Clermont, GA 30527

If to the City of Flowery Branch:	Mayor City of Flowery Branch P.O. Box 757 Flowery Branch, GA 30542
If to the City of Gainesville:	Mayor City of Gainesville P.O. Box 2496 Gainesville, GA 30503
If to the City of Gillsville:	Mayor City of Gillsville P.O. Box 25 Gillsville, GA 30543
If to the City of Lula:	Mayor City of Lula P.O. Box 99 Lula, GA 30554
If to the City of Oakwood:	Mayor City of Oakwood PO. Box 99 Oakwood, GA 30566
If to the City of Rest Haven:	Chairman City of Buford 2300 Buford Highway Buford, GA 30518

Section 15. Entire Agreement.

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to distribution and use of the proceeds from the SPLOST VIII. Furthermore, this Agreement supersedes all prior agreements, negotiations, and communications of whatever type, whether written or oral between the parties hereto with respect to distribution and use of the SPLOST VIII.

Section 16. Amendments.

This Agreement shall not be amended or modified except by agreement in writing executed by the governing authorities of the County and the Municipalities or except as otherwise set forth herein.

Section 17. Governing Law.

This Agreement shall be deemed to have been made and shall be construed and enforced in accordance with the laws of the State of Georgia.

Section 18. Severability.

Should any phrase, clause, sentence, or paragraph of this Agreement be held invalid or unconstitutional, the remainder of the Agreement shall remain in full force and effect as if such invalid or unconstitutional provision were not contained in the Agreement unless the elimination of such provision detrimentally reduces the consideration that any party is to receive under this Agreement or materially affects the operation of this Agreement.

Section 19. Compliance with Law.

The County and the Municipalities shall comply with all applicable local, State, and Federal statutes, ordinances, rules, and regulations.

Section 20. No Consent to Breach.

No consent or waiver, express or implied, by any party to this Agreement, to any breach of any covenant, condition or duty, of another party shall be construed as a consent to or waiver of any future breach of the same.

Section 21. Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 22. Mediation.

The County and the Municipalities agree to submit any controversy arising under this Agreement to mediation for a resolution. The parties to the mediation shall mutually select a neutral party to serve as mediator. Costs of mediation shall be shared equally among the parties to the mediation.

Section 23. Automatic Modification of Agreement.

As required by O.C.G.A. § 48-8-110(3), this Agreement must be approved and executed by the County and one or more municipalities within the County representing at least 50 percent of the County's municipal population. In the event that any Municipality other than the City of Gainesville has not approved and executed this Agreement by August 21, 2019, such non-executing Municipality shall automatically be deemed not to be a party to this

Agreement, but the capital outlay projects of such Municipality shall continue to be approved hereby and shall continue to be capital outlay projects to be funded from the SPLOST proceeds as provided herein, subject to compliance with the SPLOST Law by such Municipality.

IN WITNESS WHEREOF, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed, and delivered for final execution by the County on the date indicated herein.

HALL COUNTY, GEORGIA

By: _____
Chairman, Board of Commissioners of Hall County

Attest: _____
Clerk, Board of Commissioners of Hall County

(SEAL)

(Signatures continued on next page)

TOWN OF BRASELTON, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF BUFORD, GEORGIA

By: _____
Chairman

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF CLERMONT, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF FLOWERY BRANCH, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF GAINESVILLE, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF GILLSVILLE, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF LULA, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF OAKWOOD, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

(Signatures continued on next page)

CITY OF REST HAVEN, GEORGIA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

EXHIBIT "A"

LEVEL TWO PROJECTS

Project Name/Description		Estimated Project Cost
Trails and Associated Greenspace	$	7,000,000
Hall County Government Center Building/Campus Improvements		6,500,000
Library Parking Deck		5,000,000
Landfill Phase II Cell III		4,500,000
Ambulances		4,000,000
Fire Training Center Expansion		3,000,000
East Hall Library		3,000,000
Courthouse Complex Building/Campus Improvements		1,621,920
Chicopee Woods Area Park Commission/Elachee Nature Center Building		1,000,000
Community Service Center Campus Improvements		250,000
Total estimated cost of Level Two projects	**$**	**35,871,920**

EXHIBIT "B"

HALL COUNTY

SPLOST PROJECTS

Project Name/Description		Estimated Project Cost
Roads, streets, bridges, sidewalks and related improvements; including road expansion, road resurfacing, intersection improvements, base and paving projects, culvert replacement, traffic safety enhancements, and related projects	$	73,589,057
Water and sewer capital improvements; including new sewer lines, Mulberry Creek regional sewer, and sewer expansion projects		24,726,036
Fire services facilities and equipment; including new fire apparatus, and fire station renovations		7,000,000
Parks and leisure facilities and equipment; including land acquisition, new park construction, existing park restoration and renovations, and related park improvements		6,000,000
Public safety facilities, vehicles, and equipment; including patrol cars, various jail/detention center capital improvements, technology enhancements, and related projects		6,000,000
Building renovations/capital replacement; including roof replacements, HVAC replacements, energy upgrades, and related projects		6,000,000
Technology infrastructure and enhancements; including upgraded storage capacity/systems, new software, and related projects		3,000,000
Total estimated cost of county projects	**$**	**126,315,093**

MUNICIPAL SPLOST PROJECTS

TOWN OF BRASELTON

Project Name/Description	Estimated Project Cost	
Roads, streets, bridges, sidewalks, and related improvements	$	1,187,395
Parks and leisure facilities and related improvements		1,187,394
Total estimated cost of Braselton projects	**$**	**2,374,789**

CITY OF BUFORD

Project Name/Description	Estimated Project Cost	
Roads, streets, bridges, sidewalks, and related improvements	$	1,427,155
Total estimated cost of Buford projects	**$**	**1,427,155**

CITY OF CLERMONT

Project Name/Description	Estimated Project Cost	
Roads, streets, bridges, sidewalks, and related improvements	$	432,439
Parks and leisure facilities and equipment		432,438
Total estimated cost of Clermont projects	**$**	**864,877**

CITY OF FLOWERY BRANCH

Project Name/Description	Estimated Project Cost	
Roads, streets, bridges, sidewalks, and related improvements	$	5,718,230
Parks and leisure facilities, land, and equipment		535,000
Public safety vehicles and equipment		156,000
Public works facilities, land, vehicles, and equipment		383,384
Total estimated cost of Flowery Branch projects	**$**	**6,792,614**

CITY OF GAINESVILLE

Project Name/Description	Estimated Project Cost
Roads, streets, bridges, sidewalks, and related improvements	$ 15,000,000
Parks and recreation facilities and equipment	9,164,541
Public safety facilities and equipment	8,500,000
Downtown parking deck	4,000,000
Total estimated cost of Gainesville projects	**$ 36,664,541**

CITY OF GILLSVILLE

Project Name/Description	Estimated Project Cost
Roads, streets, bridges, sidewalks, and related improvements	$ 77,000
Parks and leisure facilities and equipment	77,000
Downtown infrastructure	66,746
Total estimated cost of Gillsville projects	**$ 220,746**

CITY OF LULA

Project Name/Description	Estimated Project Cost
Roads, streets, bridges, sidewalks, and related improvements	$ 1,048,744
Water and sewer capital improvements, vehicles, and equipment	1,310,931
Parks and leisure facilities, vehicles, and equipment	262,118
Total estimated cost of Lula projects	**$ 2,621,793**

CITY OF OAKWOOD

Project Name/Description	Estimated Project Cost
Roads, streets, bridges, sidewalks, and related improvements	$ 2,368,262
Water and sewer capital improvements	800,000
Public safety vehicles and equipment	600,000
Total estimated cost of Oakwood projects	**$ 3,768,262**

CITY OF REST HAVEN

Project Name/Description	**Estimated Project Cost**	
Roads, streets, bridges, sidewalks, and related improvements	$	38,210
Total estimated cost of Rest Haven projects	**$**	**38,210**

881802-2

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/15/2019

Presenter: Bryan Lackey

Item of Business: BR-2019-32 Lease Renewal with U.S. Army Corps of Engineer for Clarks Bridge Park

Meeting Date: 8/20/2019

Purpose of Request:

To renew the lease between the US Army Corps of Engineers and the City of Gainesville for Clarks Bridge Park effective October 1, 2019 through September 30, 2044.

History/Background:

The original lease agreement began in 1994 and named the City of Gainesville and Hall County as lessees. Upon the transition of Lake Lanier Olympic Park to the sole ownership of the City of Gainesville, the renewed leased beginning in 2019 will name City of Gainesville as the sole lessee.

Facts & Issues for Consideration:

Department Recommendation:

Approval of the resolution to renew the lease agreement.

Department Director:

Kate Mattison

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

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
BR-2019-32 Lease Renewal - Clarks Bridge Park	Resolution
Lease Agreement	Contract/Agreement/MOU
Lease Agreement Exhibits A - G	Attachments/Exhibits

RESOLUTION BR-2019-32

Renewal of Army Corps of Engineers Lease
Clarks Bridge Park

WHEREAS, it is the intent of the City of Gainesville, through the Parks and Recreation Board to provide adequate parks for the citizens of Gainesville to enjoy; and

WHEREAS, the City of Gainesville entered into a lease agreement with the United States Army Corps of Engineers for approximately 50 acres on October 1, 1994; and

WHEREAS, this lease agreement was for a period of twenty-five (25) years, expiring on September 30, 2019; and

WHEREAS, it is the desire of the City of Gainesville to renew the lease agreement with the United States Army Corps of Engineers for a period of twenty-five (25) years, expiring on September 30, 2044.

NOW, THEREFORE, BE IT RESOLVED THAT the governing body of the City of Gainesville is authorized to sign such documents that are necessary to renew the Army Corps of Engineers Lease No. DACW01-1-19-0459 Lake Sidney Lanier for Clarks Bridge Park.

Adopted this _____ day of _____, 2019.

_____
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

DEPARTMENT OF THE ARMY
LEASE TO NON-STATE GOVERNMENTAL AGENCIES
FOR PUBLIC PARK AND RECREATIONAL PURPOSES
Clarks Bridge Park
Lake Sidney Lanier

THIS LEASE is made on behalf of the United States, between the **SECRETARY OF THE ARMY**, hereinafter referred to as the Secretary, and the **CITY OF GAINESVILLE**, a municipality and political subdivision of the State of Georgia, acting by and through its mayor and city council, hereinafter referred to as the Lessee,

WITNESSETH:

That the Secretary, by authority of Title 16, United States Code, Section 460d, and for the consideration hereinafter set forth, hereby leases to the Lessee, the property identified in Exhibit "A" and shown on Exhibit "B", attached hereto and made a part hereof, hereinafter referred to as the premises, for public park and recreational purposes.

THIS LEASE is granted subject to the following conditions:

1. TERM

Said premises are hereby leased for a term of Twenty-Five (25) years, beginning October 1, 2019 and ending September 30, 2044.

2. CONSIDERATION

The consideration for this lease is the operation and maintenance of the premises by the Lessee for the benefit of the United States and the general public in accordance with the conditions herein set forth.

3. NOTICES

All correspondence and notices to be given pursuant to this lease shall be addressed, if to the Lessee, to the City of Gainesville, Parks & Recreation Department, 830 Green Street, Northeast, Gainesville, Georgia 30501, and if to the United States, to the District Engineer, ATTN: Chief, Real Estate Division, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, AL 36628-0001, or as may from time to time otherwise by directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary of the Army," "District Engineer," "said officer" or "Lessor" shall include their duly authorized representatives. Any reference to "Lessee" shall include sublessees, assignees, transferees, concessionaires, and its duly authorized representatives.

5. DEVELOPMENT PLANS

The Lessee shall be guided by an Annual Plan of Operation and Maintenance in furtherance of the Lessee's implementing Plan of Recreation Development and Management (Development Plan) attached as Exhibit "C" which shows the facilities and services necessary to meet the current and potential public demand and the management and development activities to be undertaken by the Lessee and any sublessees. No later than March 15th of each year the Lessee will submit the annual Plan to be mutually agreed on between the Lessee and the District Engineer. Such annual Plan shall include but is not limited to the following:

a. Plans for management, maintenance and development activities to be undertaken by the Lessee and any sublessees.

b. Report of the management, maintenance and development accomplishments of the Lessee for the preceding year.

c. Report on any significant modification of policies or procedures which are planned for the following year as well as those implemented in the preceding year.

d. Minor modifications to the Development Plan. Major modifications are to be accomplished by amendment to the Plan before proceeding to implement any changes in the development or management of the leased premises.

e. Budget of the Lessee for carrying out all activities for the upcoming year.

f. Personnel to be used in the management of the leased premises.

g. Annual certification that all water and sanitary systems on the premises have been inspected and comply with Federal, state and local standards. Lessee will also provide a statement of compliance with the Rehabilitation Act and the Americans with Disabilities Act, as required in the condition on **NON-DISCRIMINATION**, noting any deficiencies and providing a schedule for correction.

The use and occupation of the premises shall be subject to the general supervision and approval of the District Engineer.

During the term of the lease, the District Engineer will notify the Lessee of any updates to the existing project Master Plan affecting the premises and the Lessee may provide comments.

6. STRUCTURES AND EQUIPMENT

The Lessee shall have the right, during the term of the lease, to erect such structures and to provide such equipment upon the premises as may be necessary to furnish the facilities and services authorized. Those structures and equipment shall be and remain the property of the Lessee, except as otherwise provided in the Condition on **RESTORATION**. However, no structures may be erected or altered upon the premises unless and until the type of use, design, and proposed location or alteration thereof shall have been approved in writing by the District Engineer. The District Engineer may require the Lessee, upon the completion of each of the proposed developments to furnish complete "as built" construction plans for all facilities.

7. APPLICABLE LAWS AND REGULATIONS

a. The Lessee shall comply with all applicable Federal laws and regulations and with all applicable laws, ordinances, and regulations of the state, county, and municipality wherein the premises are located,

including, but not limited to, those regarding construction, health, safety, food service, water supply, sanitation, use of pesticides, and licenses or permits to do business. The Lessee shall make and enforce such regulations as are necessary and within its legal authority in exercising the privileges granted in this lease, provided that such regulations are not inconsistent with those issued by the Secretary of the Army or with the provisions of 16 U.S.C. § 460d.

b. The Lessee will provide an annual certification that all water and sanitary systems on the premises have been inspected and comply with Federal, state and local standards. The Lessee will also provide a statement of compliance with the Rehabilitation Act and the Americans with Disabilities Act, as required in the Condition on **NON-DISCRIMINATION**, noting any deficiencies and providing a schedule for correction.

8. CONDITION OF PREMISES

a. The Lessee acknowledges that it has inspected the premises, knows its condition, and understands that the same is leased without any representations or warranties whatsoever and without obligation on the part of the United States to make any alterations, repairs, or additions thereto.

b. As of the date of this lease, an inventory and condition report of all personal property and improvements of the United States included in this lease shall be made by the District Engineer and the Lessee to reflect the condition of said property and said improvements. A copy of said report is attached hereto as Exhibit "D" and made a part hereof. Upon the expiration, revocation, or termination of this lease, another inventory and condition report shall be similarly prepared. This report shall constitute the basis for settlement for property damaged or destroyed. Any such property must be either replaced or restored to the condition required by the Condition on **PROTECTION OF PROPERTY**.

9. FACILITIES AND SERVICES

The Lessee shall provide the facilities and services as agreed upon in the Development Plan referred to in the Condition on **DEVELOPMENT PLANS** either directly or through subleases or concession agreements that have been reviewed or accepted by the District Engineer. These subleases or agreements shall state: (1) that they are granted subject to the provisions of this lease; and (2) that the agreement will not be effective until the third party activities have been approved by the District Engineer. The Lessee will not allow any third party activities with a rental to the Lessee or prices to the public which would give the third party an undue economic advantage or circumvent the intent of the Development Plan. The rates and prices charged by the Lessee or its sub-lessees or concessionaires shall be reasonable and comparable to rates charged for similar goods and services by others in the area. The use of sub-lessees and concessionaires will not relieve the Lessee from the primary responsibility for ensuring compliance with all of the terms and conditions of this lease.

10. TRANSFERS, ASSIGNMENTS, SUBLEASES

a. Without prior written approval of the District Engineer, the Lessee shall neither transfer nor assign this lease nor sublet the premises or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this lease.

b. The Lessee will not sponsor or participate in timeshare ownership of any structures, facilities, accommodations, or personal property on the premises. The Lessee will not subdivide nor develop the premises into private residential development.

11. FEES

Fees may be charged by the Lessee for the entrance to or use of the premises or any facilities, however, no user fees may be charged by the Lessee or its sub-lessees for use of facilities developed in whole or part with federal funds if a user charge by the Corps of Engineers for the facility would be prohibited under law.

12. ACCOUNTS, RECORDS AND RECEIPTS

All monies received by the Lessee form operations conducted on the premises, including, but not limited to, entrance, admission and user fees and rental or other consideration received from its concessionaires, may be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Beginning 5 years from the date of this lease and continuing at 5-year intervals, any such monies not so utilized or programmed for utilization within a reasonable time shall be paid to the District Engineer. The Lessee shall establish and maintain accurate records and accounts and provide an annual statement of receipts and expenditures to the District Engineer. Annual or weekly entrance fees not collected on the Project, which also are honored at other recreational areas operated by the Lessee, are excluded from this requirement. The District Engineer shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, third party concessionaires and sub-lessees, in accordance with auditing standards and procedures promulgated by the American Institute of Certified Public Accountants or by the state, and furnish the District Engineer with the results of such an audit.

13. PROTECTION OF PROPERTY

The Lessee shall be responsible for any damage that may be caused to property of the United States by the activities of the Lessee under this lease and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Lessee to the satisfaction of the District Engineer, or, at the election of the District Engineer, reimbursement may be made therefore by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to the District Engineer.

14. RIGHT TO ENTER AND FLOOD

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with Government purposes; to make inspections; to remove timber or other material, except property of the Lessee; to flood the premises; to manipulate the level of the lake or pool in any manner whatsoever; and/or to make any other use of the land as may be necessary in connection with project purposes, and the Lessee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

15. LIGHTS, SIGNALS AND NAVIGATION

There shall be no unreasonable interference with navigation by the exercise of the privileges granted by this lease. If the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be prescribed by the Coast Guard or by the District Engineer shall be installed and maintained by and at the expense of the Lessee.

16. INSURANCE

a. At the commencement of this lease, the Lessee, unless self-insured, and its sub-lessees and concessionaires at the commencement of operating under the terms of this lease as third parties, shall obtain

from a reputable insurance company or companies contracts of liability insurance. The insurance shall provide an amount not less than that which is prudent, reasonable and consistent with sound business practices, or a minimum combined Single Limit of $1,000,000, whichever is greater, for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, property damage, or both, suffered or alleged to have been suffered by any person or persons, resulting from the operations of the Lessee, sub-lessees and concessionaires under the terms of this lease. The Lessee shall require its insurance company to furnish to the District Engineer a copy of the policy or policies or, if acceptable to the District Engineer, certificates of insurance evidencing the purchase of such insurance. The minimum amount of liability insurance coverage is subject to revision by the District Engineer every three years or upon renewal or modification of this lease.

b. The insurance policy or policies shall specifically provide protection appropriate for the types of facilities, services and products involved; and shall provide that the District Engineer be given thirty (30) days notice of any cancellation or change in such insurance.

c. In the event the Lessee is self-insured, the Lessee shall certify such self-insurance in writing in the minimum amount specified above to the District Engineer. The Lessee's insurance status shall not eliminate the requirement for its sub-lessees and concessionaires to have insurance from a reputable insurance carrier as set out above.

d. The District Engineer may require closure of any or all of the premises during any period for which the Lessee and/or its sub-lessees and concessionaires do not have the required insurance coverage.

17. RESTORATION

On or before the expiration of this lease or its termination by the Lessee, the Lessee shall vacate the premises, remove the property of the Lessee, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the Lessee shall vacate the premises, remove said property therefrom, and restore the premises to the aforesaid condition within such time as the District Engineer may designate. In either event, if the Lessee shall fail or neglect to remove said property and restore the premises, then, at the option of the District Engineer, said property shall either become the property of the United States without compensation therefore, or the District Engineer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Lessee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation or termination of this lease in restoring the premises.

18. NON-DISCRIMINATION

a. The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and

Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assigns.

19. SUBJECT TO EASEMENTS

This lease is subject to all existing easements, easements subsequently granted, and established access routes for roadways and utilities located, or to be located, on the premises, provided that the proposed grant of any new easement or route will be coordinated with the Lessee, and easements will not be granted which will, in the opinion of the District Engineer, interfere with developments, present or proposed, by the Lessee. The Lessee will not close any established access routes without written permission of the District Engineer.

20. SUBJECT TO MINERAL INTERESTS

This lease is subject to all outstanding mineral interests. As to federally owned mineral interests, it is understood that they may be included in present or future mineral leases issued by the Bureau of Land Management (BLM), which has responsibility for mineral development on Federal lands. The Secretary will provide lease stipulations to BLM for inclusion in such mineral leases that are designed to protect the premises from activities that would interfere with the Lessee's operations or would be contrary to local laws.

21. COMPLIANCE, CLOSURE, REVOCATION AND RELINQUISHMENT

a. The Lessee and/or any sub-lessees or licensees are charged at all times with full knowledge of all the limitations and requirements of this lease, and the necessity for correction of deficiencies, and with compliance with reasonable requests by the District Engineer. This lease may be revoked in the event that the Lessee violates any of the terms and conditions and continues and persists in such non-compliance, or fails to obtain correction of deficiencies by sub-lessees or licensees. The Lessee will be notified of any non-compliance, which notice shall be in writing or shall be confirmed in writing, giving a period of time in which to correct the con-compliance. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time is grounds for closure of all or part of the premises, temporary suspension of operation, or revocation of the lease, after notice in writing of such intent. Future requests by the Lessee to extend the lease, expand the premises, modify authorized activities, or assign the lease shall take into consideration the Lessee's past performance and compliance with the lease terms.

b. This lease may be relinquished by the Lessee by giving one (1) year prior written notice to the District Engineer in the manner prescribed in the Condition on **NOTICES**.

22. HEALTH AND SAFETY

a. The Lessee shall keep the premises in good order and in a clean, sanitary, and safe condition and shall have the primary responsibility for ensuring that any sub-lessees and concessionaires operate and maintain the premises in such a manner.

b. In addition to the rights of revocation for non-compliance, the District Engineer, upon discovery of any hazardous conditions on the premises that presents an immediate threat to health and/or danger to life or property, will so notify the Lessee and will require that the affected part or all of the premises be closed to the public until such condition is corrected and the danger to the public eliminated. If the condition is not corrected within the time specified, the District Engineer will have the option to revoke the lease. The Lessee and its assignees or sub-lessees shall have no claim for damages against the United States, or any officer, agent, or employee thereof on account of action taken pursuant to this condition.

23. PUBLIC USE

No attempt shall be made by the Lessee, or any of its sub-lessees or concessionaires, to forbid the full use by the public of the premises and of the water areas of the project, subject, however, to the authority and responsibility of the Lessee to manage the premises and provide safety and security to the visiting public.

24. PROHIBITED USES

a. The Lessee shall not permit gambling on the premises. Specifically prohibited are the use of gambling devices, such as slot machines, video gambling machines, or other casino type devices that would detract from the family atmosphere. District Engineers may allow the sale of state lottery tickets, in accordance with state and local laws and regulations, as long as the sale of tickets constitutes a collateral activity, rather than primary activity, of the Lessee. The Lessee shall not install or operate, or permit to be installed or operated thereon, any device which is illegal; or use the premises or permit them to be used for any illegal business or purpose. There shall not be conducted on or permitted upon the premises any activity which would constitute a nuisance.

b. As an exception, some games of chance, such as raffles, games and sporting events, may be conducted by nonprofit organizations under special permits issued in conjunction with special events, if permissible by state and local law. Any request to conduct such activities must be submitted in writing to the District Engineer.

c. In accordance with state and local laws and regulations, the Lessee may sell, store, or dispense or permit the sale, storage, or dispensing of beer, malt beverages, light wines or other intoxicating beverages on the premises in those facilities where such service is customarily found. Bar facilities will only be permitted if offered in connection with other approved activities. Advertising of such beverages outside of buildings is not permitted. Carry out package sales of hard liquor is prohibited.

25. NATURAL RESOURCES

The Lessee shall cut no timber, conduct no mining operations, remove no sand, gravel, or kindred substances from the ground, commit no waste of any kind, nor in any manner substantially change the contour or condition of the premises, except as may be authorized under and pursuant to the Development Plan described in the Condition on **DEVELOPEMNT PLANS** herein. The Lessee may salvage fallen or dead timber; however, no commercial use shall be made of such timber. Except for timber salvaged by the Lessee when in the way of construction of improvements or other facilities, all sales of forest products will be conducted by the United States and the proceeds therefrom shall not be available to the Lessee under the provisions of this lease.

26. DISPUTES CLAUSE

a. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. § 601-613) (the Act), all disputes arising under or relating to this lease shall be resolved under this clause and the provisions of the Act.

b. "Claim," as used in this clause, means a written demand or written assertion by the Lessee seeking, as a matter of right, the payment of money in a sum certain, the adjustment of interpretation of lease terms, or other relief arising under or relating to this lease. A claim arising under this lease, unlike a claim relating to the lease, is a claim that can be resolved under a lease clause that provides for the relief sought by the Lessee. However, a written demand or written assertion by the Lessee seeking the payment of money exceeding $100,000 is not a claim under the Act until certified as required by subparagraph c.(2) below. The routine request for rental payment that is not in dispute is not a claim under the Act. The request may be converted to a

claim under the Act, by this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

c. (1) A claim by the Lessee shall be made in writing and submitted to the said officer for a written decision. A claim by the Government against the Lessee shall be subject to written decision by the said officer.

(2) For Lessee claims exceeding $100,000, the Lessee shall submit with the claim a certification that:

(i) The claim is made in good faith;

(ii) Supporting data are accurate and complete to the best of the Lessee's knowledge and belief;

(iii) and the amount requested accurately reflects the lease adjustment for which the Lessee believes the Government is liable.

(3) (i) If the Lessee is an individual, the certificate shall be executed by that individual.

(ii) If the Lessee is not an individual, the certification shall be executed by:

(A) A senior company official in charge at the Lessee's location involved; or

(B) An officer or general partner of the Lessee having overall responsibility of the conduct of the lessee's affairs.

d. For Lessee claims of $100,000 or less, the said officer must, if requested in writing by the Lessee, render a decision within 60 days of the request. For Lessee-certified claims over $100,000, the said officer must, within 60 days, decide the claim or notify the Lessee of the date by which the decision will be made.

e. The said officer's decision shall be final unless the Lessee appeals or files as suit as provided in the Act.

f. At the time a claim by the lessee is submitted to the said officer or a claim by the Government is presented to the Lessee, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certificate described in paragraph c.(2) of this clause, and executed in accordance with paragraph c.(3) of this clause.

g. The Government shall pay interest on the amount found due and unpaid by the Government from (1) the date the said officer received the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the said officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim. Rental amounts due to the Government by the Lessee will have interest and penalties as set out in the condition on **CONSIDERATION**.

h. The Lessee shall proceed diligently with the performance of the lease, pending final resolution of any request for relief, claim, appeal or action arising under the lease, and comply with any decision of the said officer.

27. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties to this lease shall protect the project against pollution of its air, ground, and water. The Lessee shall comply promptly with any laws, regulations, conditions or instructions affecting the activity hereby authorized, if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the leased area is specifically

prohibited. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency, are hereby made a condition of this lease. The Lessee shall require all sanitation facilities on boats moored at the Lessee's facilities, including rental boats, to be sealed against any discharge into the lake. Services for waste disposal, include swage pump-out of watercraft, shall be provided by the Lessee as appropriate. The Lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the Lessee's activities, the Lessee shall be liable to restore the damaged resources.

c. The Lessee must obtain approval in writing from the District Engineer before any pesticides or herbicides are applied to the premises.

28. PRELIMINARY ASSESSMENT SCREENING

A preliminary Assessment Screening (PAS) documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon is attached hereto and made a part hereof as Exhibit "E". Upon expiration, revocation or termination of this lease, another PAS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the Lessee in accordance with the condition on RESTORATION.

29. HISTORIC PRESERVATION

The Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the premises, the Lessee shall immediately notify the District Engineer and protect the site and the material from further disturbance until the District Engineer gives clearance to proceed.

30. SOIL AND WATER CONSERVATION

The Lessee shall maintain, in a manner satisfactory to the District Engineer, all soil and water conservation structures that may be in existence upon said premises at the beginning of, or that may be constructed by the Lessee during the term of, this lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the premises. Any soil erosion occurring outside the premises resulting from the activities of the Lessee shall be corrected by the Lessee as directed by the District Engineer.

31. TRANSIENT USE

a. Camping, including transient trailers or recreational vehicles, at one or more campsites for a period longer than thirty (30) days during any sixty (60) consecutive day period is prohibited. The Lessee will maintain a ledger and reservation system for the use of any such campsites.

b. Occupying any lands, buildings, vessels or other facilities within the premises for the purpose of maintaining a full- or part-time residence is prohibited, except for employees residing on the premises for security purposes, if authorized the District Engineer.

32. COVENANT AGAINST CONTINGENT FEES

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this lease without liability or, in its discretion, to require the Lessee to pay, in addition to the lease rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

33. OFFICIALS NOT TO BENEFIT

No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefits to arise therefrom. However, nothing herein contained shall be construed to extend to any incorporated company if the lease be for the general benefit of such corporation or company.

34. EXECUTIVE ORDER 13658

This lease is subject to the provisions of "Exhibit F," attached hereto and made a part hereof.

35. EXECUTIVE ORDER 13706

This lease is subject to the provisions of "Exhibit G," attached hereto and made a part hereof.

36. MODIFICATIONS

This lease contains the entire agreement between the parties hereto, and no modification of this agreement, or waiver, or consent hereunder shall be valid unless the same be in writing, signed by the parties to be bound or by a duly authorized representative; and this provision shall apply to this clause as well as all other conditions of this lease.

37. DISCLAIMER

This lease is effective only insofar as the rights of the United States in the premises are concerned; and the Lessee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this lease does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat.1151; 33 U.S.C. § 403), or Section 404 of the Clean Water Act (33 U.S.C. § 1344).

This lease supersedes Department of the Army Lease No. DACW01-1-94-0071.

IN WITNESS WHEREOF I have hereunto set my hand by authority of the Secretary of the Army, this _____ day of _____, 2019.

_____
CHRISTOPHER C. MAY
Real Estate Contracting Officer

Signed, sealed and delivered
in the presence of:

_____
Unofficial Witness

_____
NOTARY PUBLIC
My Commission Expires_____
[SEAL]

THIS LEASE is also executed by the Lessee this _____ day of _____, 2019.

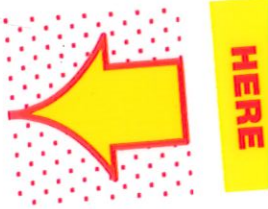
CITY OF GAINESVILLE:

_____
SIGNATURE

_____
PRINTED NAME

_____
TITLE

_____
PHONE NUMBER



Signed, sealed and delivered
in the presence of:

_____
Unofficial Witness

_____
NOTARY PUBLIC
My Commission Expires_____
[SEAL]

CERTIFICATE OF AUTHORITY

I, _____, certify that I am the _____
(Name) **(Secretary or Attesting Officer)**

of the _____, named as grantee/lessee/licensee herein;
(Agency Name)

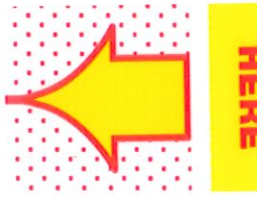
that _____, who signed this Agreement on behalf
(Officer Name)

of said _____, was then _____
(Agency Name) **(Officer Title)**

of the Agency; and that said Agreement was duly signed for and on behalf of

the _____ by authority of its governing body and is
(Agency Name)

within the scope of its statutory powers.



Signed, _____
Secretary or Attesting Officer

(The person that signed the attached instrument cannot sign Certificate)

This form certifies that the person signing the attached instrument has the authority to do so. The signature of the Secretary/Attesting Officer and the Individual signing the attached instrument cannot be the same.

REQUEST FOR GRANTEE
SOCIAL SECURITY NUMBER AND/OR TAXPAYER IDENTIFICATION NUMBER

Nature of Outgrant: Lease, Non-State Public Park
(EASEMENT, LEASE, LICENSE, PERMIT, RIGHT OF WAY, ETC.)

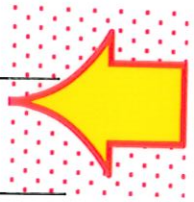
Number of Outgrant: DACW01-1-19-0459

Name of Grantee: City of Gainesville
(PRINT NAME)

Address of Grantee: _____

_____

Grantee's Social Security Number: _____



Grantee's Taxpayer Identification Number: _____

_____ _____
SIGNATURE *DATE*

PRIVACY ACT STATEMENT

Purpose of Form: This information is mandatory under the Debt Collection Improvement Act of 1996, Public Law 104-134, April 26, 1996, 110 Stat 1321-358. The head of each Federal Agency must require each person doing business with that agency to furnish to that agency such person's taxpayer identification number. The agency intent is to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government. OMB Circular A-129, App. A, part V, and DOD Financial Regulation 7000.14-R, Vol. 4, chapter 3, states that any close-out of accounts receivable procedures will include reporting the close-out amount on IRS Form 1099-C. IRS Form 1099-C is an income form which requires a taxpayer identification number and means that the agency will report the uncollectible debt to IRS as income to the person who failed to pay the uncollectible debt owed to the agency under the outgrant. The 1099-C reports the uncollectible debt as income to the debtor, which may be taxable at the debtor's current tax rate. Failure to provide this information may result in your outgrant request being denied.

U.S. Army Corps of Engineers, Mobile District

LAKE SIDNEY LANIER
CLARKS BRIDGE PARK

PARCEL 1

All that tract or parcel of land lying and being in Land Lots 159 and 160, Tenth Land District, Hall County, Georgia more particularly described as follows:

Beginning at a Government marker stamped "159-1" which is 700 feet, more or less, South of the North line and 1,325 feet, more or less, West of the East line of said Land Lot 159, at a corner of a tract of land owned by the United States of America at Lake Sidney Lanier, and at plane coordinate position North 1,585,120.98 feet and East 612,603.50 feet, based on Transverse Mercator Projection Georgia West Zone, NAD '27;

Thence along the boundary of said United States tract the following bearings and distances;

S 65° 27' E 367.6 feet, to a Government marker stamped "159-2";

N 38° 31' E 317.4 feet, to a Government marker stamped "159-3";

S 58° 50' E 293.8 feet, to a Government marker stamped "159-4";

S 29° 28' W 400.1 feet, to a Government marker stamped "159-5";

S 48° 01' E 377 .5 feet, to a Government marker stamped "159-6";

S 51° 25' W 203.0 feet, to a Government marker stamped "159-7";

N 35° 44' W 34.9 feet, to a Government marker stamped "159-8";

N 89° 32' W 448.3 feet, to a Government marker stamped "159-9";

S 39° 41' W 387.1 feet, to a Government marker stamped "159-10";

S 63° 10' E 112. 6 feet, to a Government marker stamped "159-11";

S 26° 14' W 111.0 feet, to a Government marker stamped "159-12";

S 61° 34' E 268.0 feet, to a Government marker stamped "159-13";

S 60° 02' E 299.8 feet, to a Government marker stamped "159-14";

N 49° 33' E 678.0 feet, to a Government marker stamped "159-15";

Thence S 44° 38' E 90 feet, more or less, to a point on the contour at elevation 1,071.0 feet above Mean Sea Level;

Thence Southwesterly, Northerly, and Northeasterly along the meanders of said 1,071-foot contour a distance of 5,800 feet, more or less, to a point on a line which bears N 65° 27' W from the point of beginning;

Thence S 65° 27' E 180 feet, more or less, to the point of beginning.

Containing 33.20 acres, more or less, and being a part of Tracts O-1556, O-1557 and O-1558 of the Lake Sidney Lanier Project.

PARCEL 2

All that tract or parcel of land lying and being in Land Lots 110 and 114, 9th Land District, Hall County, Georgia more particularly described as follows:

Beginning at a Government marker stamped "$\frac{114}{110}$ A" which is on the East line and 2,150 feet, more or less, Northwest of the Southeast corner of said Land Lot 114, at a corner of a tract of land owned by the United States of America at Lake Sidney Lanier, and at plane coordinate position North 1,583,172.91 feet and East 614,572.67 feet based on Transverse Mercator Projection Georgia West Zone, NAD '27;

Thence S 60° 57' W along the boundary of said United States tract a distance of 300.0 feet to a Government marker stamped "114-8";

Thence S 31° 00' E along the boundary of said United States tract a distance of 250.0 feet, to a Government marker stamped "114-9";

Thence S 60° 15' E along the boundary of said United States tract a distance of 409.0 feet, to a Government marker stamped "114-10";

Thence S 60° 57' W 95 feet, more or less, to a point on the contour at elevation 1,071.0 feet above Mean Sea Level;

Thence Northwesterly and Northeasterly along the meanders of said 1,071-foot contour a distance of 1,900 feet, more or less, to a point on a line which bears N 32° 38' W from a Government marker stamped "110-25", the coordinates of said marker being North 1,583,537.35 feet and East 615,140.60 feet;

Thence S 32° 38' E 150 feet, more or less, to said marker "110-25", which is at a corner of said United States tract;

Thence S 58° 53" W along the boundary of said United States tract a distance of 248.6 feet to a Government marker stamped "110-26";

Thence N 32° 41' W along the boundary of said United States tract a distance of 96.6 feet to a Government marker stamped "110-27";

Thence S 58° 48' W along the boundary of said United States tract a distance of 283.3 feet, to a Government marker stamped "110-28";

Thence S 34° 46' E along the boundary of said United States tract a distance of 117.8 feet, to a Government marker stamped "110-29";

Thence S 60° 01' W along the boundary of said United States tract a distance of 147.6 feet, more or less, to the point of beginning.

Containing 3.60 acres, more or less, and being a part of Tracts O-1578 and O-1580 of the Lake Sidney Lanier Project.

PARCEL 3

All that tract or parcel of land lying and being in Land Lots 158 and 161, Tenth Land District, Hall County, Georgia, more particularly described as follows:

Commencing at a Government marker stamped "161-1R" which is 1,000 feet, more or less, South of the North line and 250 feet, more or less, East of the West line of said Land Lot 161, at a corner of a tract of land owned by the United States of America at Lake Sidney Lanier and at plane coordinate position North 1,587,970.48 feet and East 617,451.71 feet, based on Transverse Mercator Projection, Georgia West Zone, NAD '27;

Thence N 35° 24' W along the boundary of said United States tract a distance of 750 feet, to the POINT OF BEGINNING:

Thence S 35° 24' E along the boundary of said United States tract a distance of 750 feet to said Government marker stamped "161-1R";

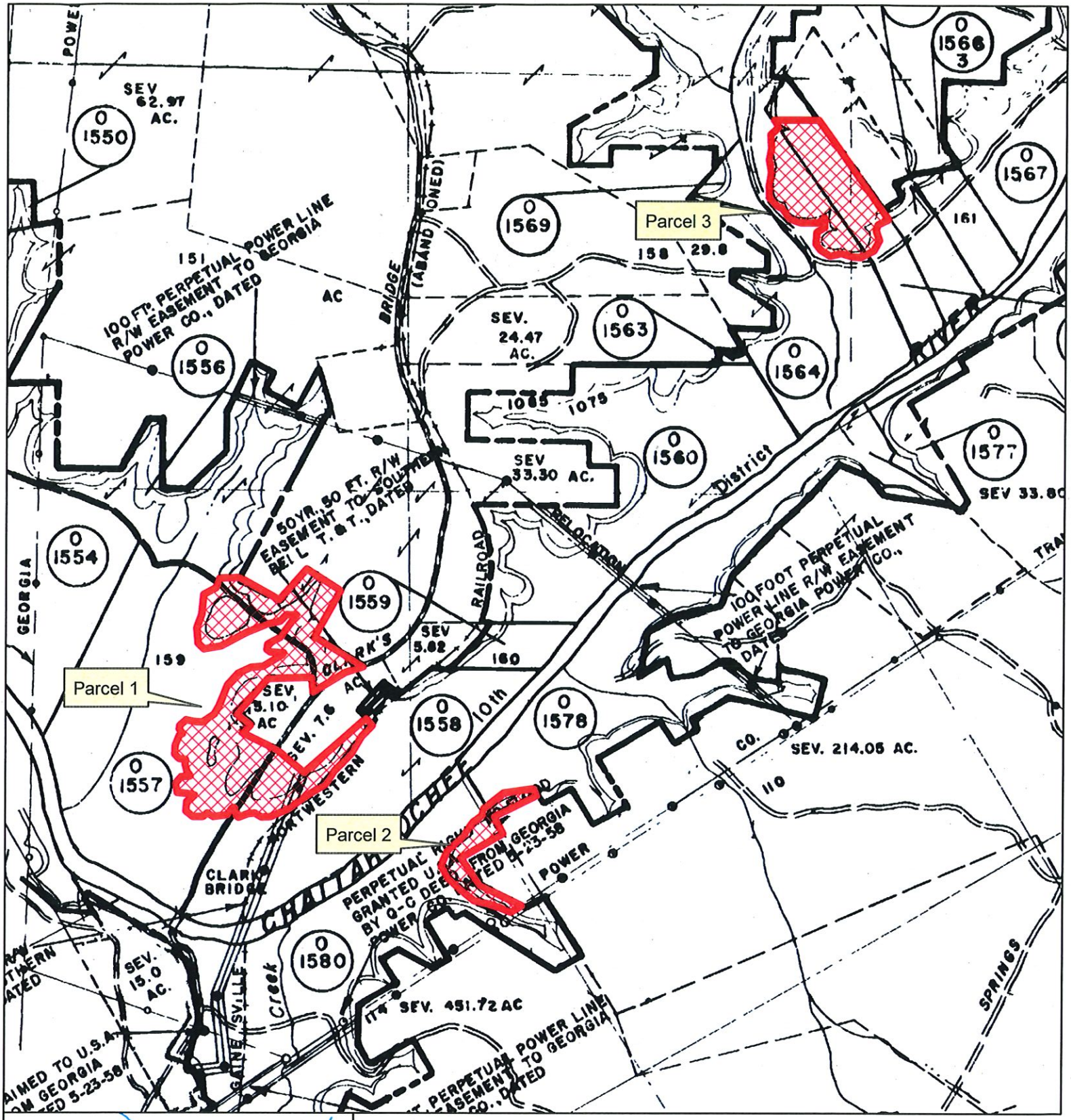
Thence continue S 35° 24' E 225 feet, more or less, to a point on the contour at elevation 1,071.0 feet above Mean Sea Level;

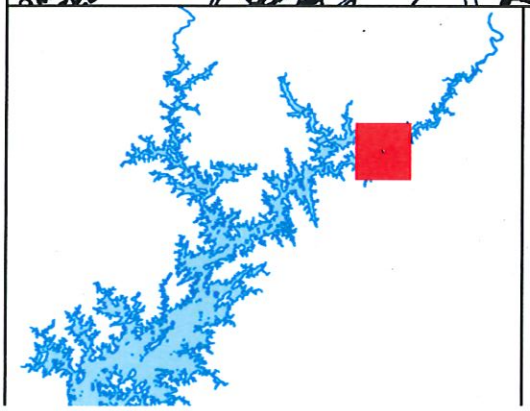
Thence Westerly and Northwesterly along the meanders of said 1,071-foot contour a distance of 1,950 feet, more or less, to a point on a line which bears S 86° W from the point of beginning;

Thence N 86° E 330 feet, more or less, to the point of beginning.

Containing 13.40 acres, more or less, and being a part of Tracts 0-1561 and 0-1566-1 of the Lake Sidney Lanier Project.

Parcels 1, 2, and 3 contain in the aggregate 50.20 acres, more or less.*





Lake Sidney Lanier
A Portion of Segment "O"
Land Lots 159 & 160, 10th Land District
Land Lots 110 & 114, 9th Land District

N

Leased Area

1 inch = 1,000 feet

Exhibit "B" to Lease
No. DACW79-1-1059

PLAN OF RECREATION
DEVELOPMENT AND MANAGEMENT
(DEVELOPMENT PLAN)

CLARKS BRIDGE PARK
DACW01-1-19-0459
LAKE SIDNEY LANIER

Existing Development and Assumption of Operations:

At the time of commencement of this lease, the Lessee will continue to be responsible for the operation and maintenance of Clarks Bridge Park, together with the facilities and improvements therein which have been constructed by the U. S. Army Corps of Engineers. A list of those facilities and improvements is included in the Joint Survey and Inspection report attached to the lease as Exhibit "D".

Future Development:

Any future development will be in accordance with plans to be presented to and approved by the District Engineer as provided for in the condition on STRUCTURES AND EQUIPMENT, of the lease. Mobile District Corps of Engineers conceptually approved a Master Plan and associated Environmental Assessment for Clarks Bridge Park on May 25, 2018.

Environmental Assessment:

A new development or major change in the site development or operation will be subject to an Environmental Assessment (EA) or such other evaluation and documentation as the National Environmental Policy Act (NEPA) may require.

JOINT SURVEY AND INSPECTION OF CONDITION OF GOVERNMENT LEASED PROPERTY

INSTRUCTIONS

1. If considered necessary, use a separate ENG Form 3143a for each room surveyed.

2. Additional sheets may be attached for physical characteristics of land and buildings; exterior and interior details of buildings; service facilities; inventory of machinery and equipment; miscellaneous items and general remarks not otherwise covered in section II of this form or on ENG Form 3143a.

ADDED INSTRUCTIONS: *(Overprint, if desired)*

Section II is not applicable. See attached listing of facilities.

SECTION I - PROPERTY DATA AND CONDITION AGREEMENT

DATE OF SURVEY	LEASE NO.	LEASE COMMENCEMENT DATE	DATE POSSESSION TAKEN
	DACW01-1-94-71		

ACTIVITY	TOTAL LEASED BUILDING AREA *(Square feet)*
Lake Sidney Lanier Public Park and Recreation	See attached

DESCRIPTION AND LOCATION OF PROPERTY

Clarks Bridge Public Use Area: All recreational and support facilities constructed and/or furnished by the Government and located within the above-referenced lease.

Facilities listed on the attached inventory were existing at the time of the inspection and were determined to be in good condition.

JOINT AGREEMENT ON THE CONDITION OF THE PROPERTY

We, the undersigned, jointly made a survey and inspection of the condition of the property mentioned above. We agree that as of the date of survey, the condition of the property is as described herein.

THE CONDITION OF THE EXTERIOR OF THE PROPERTY IS INDICATED ON THE REVERSE SIDE OF THIS FORM. ROOM CONDITIONS ARE INDICATED ON ATTACHED ENG FORM 3143A.	NO. OF ATTACHMENTS
	1

NAME AND SIGNATURE OF ☐ OWNER ☒ LESSEE ☐ AGENT	NAME, TITLE, AND SIGNATURE OF U.S. GOVERNMENT REPRESENTATIVE
Cary G. Wright, Director Hall County Parks and Leisure Services Cary G. Wright	John R. Watson John R. Watson, Realty Specialist
ADDRESS P.O. Drawer 1435 Gainesville, GA 30503	ORGANIZATION U.S. Army Corps of Engineers Mobile District, Lake Sidney Lanier

GOVERNMENT CONSTRUCTED AND/OR FURNISHED FACILITIES
Clarks Bridge Public Use Area

FACILITIES	NUMBER/QUANTITY	CONDITION
Building : Comfort Station, Gable Roof, 15 X 25-ft, w/Sanitary System and Fixtures on Concrete Slab (Pathway Series 5)	1 ea	Good
Dock : Courtesy, 12 X 20-ft, with 4 X 40-ft Walkway; Steel w/Styrofoam Floatation (Cherokee)	1 ea	Good
Picnic Sites : Tables and Pads, concrete;	20 ea	Good
Charcoal Cookers, metal, pedestal-mounted.	20 ea	
Boat Ramp : Concrete	1 ramp/3 lanes	Good
Beach : 200 X 75-ft area with buoy line, placed river sand	1 ea	Good
Parking Lots: Paved and Striped	2 ea	Good(1)
West : Car spaces	160 ea	
East : Car spaces	12 ea	
: Car Trailer Spaces	79 ea	
Road : Paved	1 mile	Good
Guardrails : Wooden : 12-ft poles on crossties		Good
West :	On both sides of roads and parking areas	
East :	Around north and east sides of parking area	
Entrance Sign : (Recreation Area Sign) 12 X 2 X 7-ft Rock and wood	1 ea	Good
Bulletin Board : Covered Wood, 5 X 8-ft	1 ea	Good
Light Poles : Wooden, 30-ft high	2 ea	Good
Trash Receptacles : Metal, mounted		Good
West : 55-gal, open top	8 ea	
32-gal, covered	1 ea	
East : 55-gal, open top	1 ea	

(1) Parking Area, East side: Two foot diameter hole, eroded under parking lot, undertermined depth, length, and width. Lake Sidney Lanier maintenance staff will fill and pack hole with gravel to eliminate safety hazard.

PRELIMINARY ASSESSMENT SCREENING

FOR

DEPARTMENT OF THE ARMY LEASE NO. DACW01-1-94-71

HALL COUNTY, GEORGIA
LAKE SIDNEY LANIER, GEORGIA

Based on the attached Property Inspection Checklist, no apparent environmental contamination was present which would indicate that hazardous, toxic or radiological waste had been stored, released or disposed of on the property as of September 9, 1993.

December 1, 1993
Date

Donald L. Burchett
DONALD L. BURCHETT
Chief, Real Estate Division

****

TO: _____

SUBJECT: Request for Preliminary Assessment Screening, _____

Based on the attached Property Inspection Checklist, possible environmental contamination could exist on the inspected property. Request that a Preliminary Assessment Screening and/or other documentation be provided.

_____
Date

_____
DONALD L. BURCHETT
Chief, Real Estate Division

PROPERTY INSPECTION CHECKLIST
PART A - RECORDS SEARCH

Reconnaissance Sources

____ Public Records
____ Interviews (owner, residents, local govt. _____)
____ Aerial Photos (USGS, SCS, Tax Office _____)
__X__ Real Estate Records
____ Maps
____ Other: _____

____ List elements which were searched for records (District, Division, library, etc.): _____

Prior Owners (name)	(date)	(deed bk, page)
Tr. O-1557 - H.B. Grier	16 Aug 1956	Book 169, Pg. 164-165
Tr. O-1558 - Clyde Waters	17 Aug 1956	Book 169, Pg. 187-188
Tr. O-1559 - B.D. Wofford	17 Aug 1956	Book 169, Pg. 195-196
Tr. O-1560 - L.L. Little	16 Aug 1956	Book 169, Pg. 173-175
Tr. O-1561--Mrs. King G. Wiley, et al	29 Dec 1956	Book 172, Pg. 321-323

Continued on page 2

Notes (discuss relevant former uses): At the time of the Government's acquisition, the land was either farmland or timberland.

Based on the above information, is completion of Part B necessary? yes _____ no __X__ ; however, an onsite inspection was completed.

Name: Margaret A. Boykin **Date:** 11/30/93

Title: Realty Specialist

"PROPERTY INSPECTION CHECKLIST"

Prior Owners (Name)	(Date)	(Deed Book, Page)
Tr. O-1562-L.E. Pittman, et al	3 Aug 1956	CA 703 filed U.S. District Court Northern Dist of GA
Tr. O-1563-A.H. Wilson & E.B. White	29 Dec 1956	Book 172, Pg. 370-1
Tr. O-1564-Mrs. E.G. Cagle & Mrs. Blanche C. Harrison	3 Aug 1956	CA 703 filed U.S. District Court Northern Dist of GA
Tr. O-1565-L.C. Harrison	3 Aug 1956	CA 703 filed U.S. District Court Northern Dist of GA
Tr. O-1566-2&3-Cora L. Norrell	28 Dec 1958	CA 720 filed U.S. District Court Northern Dist of GA
Tr. O-1567-L.E. Pittman, et al	3 Aug 1956	CA 703 filed U.S. District Court Northern Dist of GA

PROPERTY INSPECTION CHECKLIST
PART B - SITE VISIT

Site Name: Clark's Bridge Day Use Area
Site No.: N/A
Location: Lake Sidney Lanier, GA
Present Use: Government-owned and operated day use site.

I. Environmental Conditions Observed:

a. NO Suspect Odors
b. NO Discolored Soil or Water
c. NO Distressed/Dead Vegatation
e. NO Abnormal Mounding
f. NO Area(s) of Subsidence
g. NO Other: _____

Further Explanations: _____

II. Other Observed Features:

a. YES Buildings (Active or Abandoned) CLARK'S BRIDGE PUBLIC USE AREA TOILETS
b. NO Above Ground or Underground Storage Tanks
c. NO Landfills
d. NO Surface Impoundments
e. NO Underground Injection Wells
f. NO Drums/Containers/Hazardous Material Storage Areas
g. NO Lagoons (Wastewater or Hazardous Waste)
h. NO Incinerator
i. NO Waste Piles/Disposal Sites
j. YES Oil-filled Electical Equipment ON OR NEAR GOV'T PROPERTY: OVERHEAD LINE RELATED ITEMS OWNED BY GA POWER COMPANY OR JACKSON EMC.
k. NO Standpipes, Vent Pipes, Etc. (Coming Out of Ground)
l. NO Unexploded Ordnance
m. NO Industrial Facilites
n. YES Wastewater Treatment Plant (PVA) SEPTIC TANK AND PIT TOILETS
o. YES Discharges to Surface Waters or Drainage Ditches (STORMWATER)
p. YES Potential Environmental Problems on Adjacent Land
q. NO Other: _____

Further Explanations: P. RESIDENTIAL DEVELOPMENT ON EITHER SIDE OF BANKS; AND OLD BUSINESSES ADJACENT TO GOV'T PROPERTY. NO OBVIOUS PROBLEMS WERE NOTED AT SITES INVESTIGATED.

Name: John R. Watson **Date:** 9/9/93
Title: Realty Specialist
Environmental Background: Sustantial ___ Limited X None ___

EXECUTIVE ORDER 13658

Any reference in this section to "prime contractor" or "contractor" shall mean the Lessee and any reference to "contract" shall refer to the Lease.

The parties expressly stipulate this contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

a. Minimum Wages.

(1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be $10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

b. Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

c. Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

d. The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

e. Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than $10.10 (or the minimum wage as established each January thereafter) to any worker.

f. Payroll Records.

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (f)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor: (i) Name, address, and social security number. (ii) The worker's occupation(s) or classification(s). (iii) The rate or rates of wages paid. (iv) The number of daily and weekly hours worked by each worker. (v) Any deductions made; and (vi) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

g. The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

h. Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

i. Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and

(4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

j. Anti-retaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10, or has testified or is about to testify in any such proceeding.

k. Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

l. Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

APPLICABILITY OF EXECUTIVE ORDER 13658

If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

Any reference in this section to "prime contractor" or "contractor" shall mean the Lessee and any reference to "contract" shall refer to the Lease.

a. Executive Order 13706. This contract is subject to Executive Order 13706, the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order, and the following provisions.

b. Paid Sick Leave.

(1) The contractor shall permit each employee (as defined in 29 CFR 13.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and employee, to earn not less than 1 hour of paid sick leave for every 30 hours worked. The contractor shall additionally allow accrual and use of paid sick leave as required by Executive Order 13706 and 29 CFR part 13. The contractor shall in particular comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract.

(2) The contractor shall provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account. The contractor shall provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken.

(3) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the requirements of Executive Order 13706, 29 CFR part 13, and this clause.

c. Withholding. The contracting officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed to compensate for any violation of the requirements of Executive Order 13706, 29 CFR part 13, or this clause, including any pay and/or benefits denied or lost by reason of the violation; other actual monetary losses sustained as a direct result of the violation, and liquidated damages.

d. Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to comply with Executive Order 13706, 29 CFR part 13, or this clause, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance, or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

e. The paid sick leave required by Executive Order 13706, 29 CFR part 13, and this clause is in addition to a contractor's obligations under the Service Contract Act and Davis–Bacon Act, and a contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of Executive Order 13706 and 29 CFR part 13.

f. Nothing in Executive Order 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under Executive Order 13706 and 29 CFR part 13.

g. Recordkeeping.

(1) Any contractor performing work subject to Executive Order 13706 and 29 CFR part 13 must make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the information specified in paragraphs (i) through (xv) of this section for each employee and shall make them available for inspection, copying, and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor: (i) Name, address, and Social Security number of each employee; (ii) The employee's occupation(s) or classification(s); (iii) The rate or rates of wages paid (including all pay and benefits provided); (iv) The number of daily and weekly hours worked; (v) Any deductions made; (vi) The total wages paid (including all pay and benefits provided) each pay period; (vii) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2); (viii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests; (ix) Dates and amounts of paid sick leave taken by employees (unless a contractor's paid time off policy satisfies the requirements of Executive Order 13706 and 29 CFR part 13 as described in § 13.5(f)(5), leave must be designated in records as paid sick leave pursuant to Executive Order 13706); (x) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3); (xi) Any records reflecting the certification and documentation a contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee; (xii) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave; (xiii) The relevant covered contract; (xiv) The regular pay and benefits provided to an employee for each use of paid sick leave; and (xv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve a contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).

(2)(i) If a contractor wishes to distinguish between an employee's covered and non-covered work, the contractor must keep records or other proof reflecting such distinctions. Only if the contractor adequately segregates the employee's time will time spent on non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if that contractor adequately segregates the employee's time may a contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform non-covered work during the time she asked to use paid sick leave. (ii) If a contractor estimates covered hours worked by an employee who performs work in connection with covered contracts pursuant to 29 CFR 13.5(a)(i) or (iii), the contractor must keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. If a contractor estimates the amount of time an employee spends performing in connection with covered contracts, the contractor must permit the employee to use her paid sick leave during any work time for the contractor.

(3) In the event a contractor is not obligated by the Service Contract Act, the Davis Bacon Act, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the FLSA's minimum wage and overtime requirements, and the contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the contractor is excused from the requirement in paragraph (1)(d) of this section to keep records of the employee's number of daily and weekly hours worked.

(4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of Executive Order 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files. (ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents must also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60–741.23(d), and 29 CFR 1630.14(c)(1), respectively. (iii) The contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the contractor's recordkeeping obligations, if any, under the Davis–Bacon Act, the Service Contract Act, the Fair Labor Standards Act, the Family and Medical Leave Act, Executive Order 13658, their respective implementing regulations, or any other applicable law.

h. The contractor (as defined in 29 CFR 13.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts.

i. Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis–Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts currently maintained on the System for Award Management Web site, http://www.SAM.gov.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

j. Interference/Discrimination.

(1) A contractor may not in any manner interfere with an employee's accrual or use of paid sick leave as required by Executive Order 13706 or 29 CFR part 13. Interference includes, but is not limited to, miscalculating the amount of paid sick leave an employee has accrued, denying or unreasonably delaying a response to a proper request to use paid sick leave, discouraging an employee from using paid sick leave, reducing an employee's accrued paid sick leave by more than the amount of such leave used, transferring an employee to work on non-covered contracts to prevent the accrual or use of paid sick leave, disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave, or making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the contractor's operational needs.

(2) A contractor may not discharge or in any other manner discriminate against any employee for: (i) Using, or attempting to use, paid sick leave as provided for under Executive Order 13706 and 29 CFR part 13; (ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under Executive Order 13706 and 29 CFR part 13; (iii) Cooperating in any investigation or testifying in any proceeding under Executive Order 13706 and 29 CFR part 13; or (iv) Informing any other person about his or her rights under Executive Order 13706 and 29 CFR part 13.

k. Waiver. Employees cannot waive, nor may contractors induce employees to waive, their rights under Executive Order 13706, 29 CFR part 13, or this clause.

l. Notice. The contractor must notify all employees performing work on or in connection with a covered contract of the paid sick leave requirements of Executive Order 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

m. Disputes concerning labor standards. Disputes related to the application of Executive Order 13706 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 8/12/2019

Presenter: Bryan Lackey

Item of Business: PR-2019-13 Governor's Office of Highway Safety Highway Enforcement of Aggressive Traffic (HEAT) Grant Supplement

Meeting Date: 8/20/2019

Purpose of Request:

To continue participation in the Governor's Office of Highway Safety's, Highway Enforcement of Aggressive Traffic Grant. The original grant terms require an update to continue participation.

History/Background:

In 2017 the Hall County Sheriff's Office and the Gainesville Police Department partnered to receive funding from the Governor's Office of Highway Safety for the funding of one equipped police vehicle and all related operational expenses, one salary and fringe benefits for a position at each agency.

Facts & Issues for Consideration:

The opportunity for continued participation in the grant exist. The funding levels require matching funds in the following scale: 80% funded in the first year with 20% match (FY2019), 60% funding in the second year with a 40% match (FY2020), and 20% funding in the third year with a 80% match (FY2021).

Department Recommendation:

Approval for continued participation in the HEAT Grant.

Department Director:

Jay Parrish

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

Amount Requested:

Source of Funds:

Full Time Salaries and Wages

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
PR-2019-13 GOHS HEAT Grant Supplement	Resolution

RESOLUTION PR-2019-13

GOVERNOR'S OFFICE OF HIGHWAY SAFETY
HIGHWAY ENFORCEMENT OF AGGRESSIVE TRAFFIC (HEAT) GRANT
SUPPLEMENT

WHEREAS, the Hall County Sheriff's Office and the Gainesville Police Department have the opportunity to continue receiving joint grant funding from the State of Georgia, Governor's Office of Highway Safety for the Highway Enforcement of Aggressive Traffic Grant through the National Highway Safety Administration to promote the development and implementation of innovative programs to address highway safety problems; and

WHEREAS, in conjunction with Project Resolution 2017-03, awarded grant funds have been and will be utilized to fund of a police officer position and operational expenses beginning fiscal year 2019 whereby the City of Gainesville received 80% funding in the first year (FY2019) with a required 20% match; and

WHEREAS, the Governor's Office of Highway Safety has announced continued funding allowing the City of Gainesville to receive 60% funding in FY2020 with a required 40% match followed by 20% funding in FY2021 with a required 80% match; and

WHEREAS, the Gainesville Police Department has recognized the applicability of this grant to continue it partnerships with members on the Highway Enforcement of Aggressive Traffic Unit and the Gainesville Police Department's Highway Safety Philosophy; and

NOW, THEREFORE, BE IT RESOLVED THAT the governing body for the City of Gainesville hereby authorizes the City Manager to execute all documents on behalf of the City of Gainesville Police Department to the Governor's Office of Highway Safety to accept the continued funding, with matching funds, of the Highway Enforcement of Aggressive Traffic Grant.

BE IT FURTHER RESOLVED THAT adoption of this resolution updates and accurately reflects the FY2019 funding.

Adopted this _____ day of _____, 2019.

_____
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

Date Submitted: 8/6/2019

Presenter: Abb Hayes

Item of Business: **Ordinance No. 2019-24**
Amend Title 6 Chapter 6-21 Entitled Small Wireless Facilities In the City Right of Way
AN ORDINANCE TO AMEND TITLE 6 ENTITLED "LICENSES, PERMITS AND BUSINESS REGULATIONS" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY CREATING A CHAPTER 6-21 ENTITLED "SMALL WIRELESS FACILITIES IN THE CITY RIGHT OF WAY" TO IMPOSE APPLICATION, ADMINISTRATIVE REVIEW, AND OTHER REQUIREMENTS ON WIRELESS PROVIDERS WANTING TO COLLOCATE A SMALL WIRELESS FACILITY IN THE RIGHT OF WAY OR TO INSTALL, MODIFY, OR REPLACE ASSOCIATED POLES OR DECORATIVE POLES IN THE RIGHT OF WAY; TO AMEND CHAPTER 6-17 ENTITLED "USE OF CITY RIGHT-OF-WAY" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ADDING SECTION 6-17-8 ENTITLED "EXCEPTION;" TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Meeting Date: 8/20/2019

Purpose of Request:

To establish an ordinance pertaining to Small Wireless Facilities in the City Right of Way.

History/Background:

The state recently enacted legislation relating to small cell. This ordinance will align the City's ordinance with state law.

Facts & Issues for Consideration:

Department Recommendation:

Approval of the Ordinance.

Department Director:

Bryan Lackey

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

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

	Description	Type
🗋	Ordinance 2019-24 Amend Title 6 - Small Wireless Facilities	Ordinance

Passed: _____

AN ORDINANCE

No. 2019-24

AN ORDINANCE TO AMEND TITLE 6 ENTITLED "LICENSES, PERMITS AND BUSINESS REGULATIONS" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY CREATING A CHAPTER 6-21 ENTITLED "SMALL WIRELESS FACILITIES IN THE CITY RIGHT OF WAY" TO IMPOSE APPLICATION, ADMINISTRATIVE REVIEW, AND OTHER REQUIREMENTS ON WIRELESS PROVIDERS WANTING TO COLLOCATE A SMALL WIRELESS FACILITY IN THE RIGHT OF WAY OR TO INSTALL, MODIFY, OR REPLACE ASSOCIATED POLES OR DECORATIVE POLES IN THE RIGHT OF WAY; TO AMEND CHAPTER 6-17 ENTITLED "USE OF CITY RIGHT-OF-WAY" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ADDING SECTION 6-17-8 ENTITLED "EXCEPTION;" 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.

Title 6 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended by adding the following Chapter:

CHAPTER 6-21. – SMALL WIRELESS FACILITIES IN THE CITY RIGHT OF WAY

Sec. 6-21-1. – Purpose and Compliance.

(a) O.C.G.A. § 32-4-92(a)(10) authorizes the City of Gainesville (the "City") to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act, O.C.G.A. Title 36, Chapter 66C (the "SWFAA"), to be fully codified on October 1, 2019, addresses the placement of small wireless facilities in the public rights of way of the City.

(b) The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications, and reasonable conditions regarding the placement of small wireless facilities and poles in the public rights of way. These requirements, specifications, and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights of way and its uses in the City.

(c) The objective of this Ordinance is (i) to implement the SWFAA and (ii) to ensure that the use of the public rights of way is consistent with the design, appearance, and other features of nearby land uses, and to protect the integrity of historic, cultural, and scenic resources and the quality of life of the City's residents, in part, through the adoption of certain requirements, including objective, reasonable, nondiscriminatory aesthetic and structural requirements in compliance with O.C.G.A. § 36-66C-10(2)(A) and O.C.G.A. § 36-66C-12(2)(A).

Sec. 6-21-2. – Effectiveness.

The Georgia General Assembly passed legislation, Senate Bill 66 ("SB 66"), on March 25, 2019, to provide for a permit application and an administrative review process applicable to wireless providers who wish to collocate small wireless facilities on the City's poles or decorative poles in the City's right of way and/or to occupy the City's right of way for certain uses, including certain placements of poles and certain collocations of small wireless facilities, which legislation shall be known as and may be cited as the "Streamlining Wireless Facilities and Antennae Act" ("SWFAA"). According to Section 2(a) of SB 66, Code Sections 36-66C-1, 36-66C-2, and 36-66C-3 became effective upon the Governor's approval of the bill, which approval was given on April 26, 2019. According to Section 2(b) of SB 66, the remainder of the SWFAA will become effective upon October 1, 2019. The provisions of the SWFAA, once effective, will be binding upon the City, as made clear in what will be O.C.G.A. § 36-66C-4. In recognition of the lag time between the passage of SB 66 and the October 1, 2019 effective date, and in further recognition that the City will be bound to follow the provisions of SWFAA once it becomes legally effective, it is the intent of the City Council to adopt the provisions of SB 66 to be effective as of the passage of this Ordinance and until the SWFAA becomes fully effective on October 1, 2019. To the extent this Ordinance cites provisions of the SWFAA, prior to October 1, 2019, those citations shall refer to SB 66. Once the SWFAA becomes fully effective on October 1, 2019, the provisions of O.C.G.A. §§ 36-66C-4 through 36-66C-21 will apply, in addition to the requirements set forth herein.

6-21-3. – Definitions.

Unless defined below, terms used in this Ordinance shall have the meanings given to them in O.C.G.A. § 36-66C-2.

"Authority" shall mean and refer to the City of Gainesville, Georgia.

"Decorative pole" shall have the meaning as set out in O.C.G.A. § 36-66C-2(16) but shall also specifically include mast arms for the purpose of this Ordinance.

In the event that any federal or state law containing definitions used in this Ordinance is amended, the definition in the referenced section, as amended, shall control.

6-21-4. – Mandatory Meeting Prior to Submitting Application.

(a) An applicant shall meet with the City at least thirty (30) days prior to submitting applications under O.C.G.A. § 36-66C-6 to inform the City in good faith when the applicant expects to commence deployment of small wireless facilities and poles within the City pursuant to Chapter 66C of Title 36 of the Georgia Code, the number of small wireless facilities and poles it expects to deploy during the 24 months after commencement, and the expected timing of such deployments.

(b) All documents or other information provided by the applicant in the course of, or in association with, the mandatory meeting shall be presumed to be confidential and proprietary and a trade secret as defined in O.C.G.A. § 10-1-761, shall be subject to exemption from disclosure under state and federal law, and shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia.

6-21-5. – Permits.

(a) A permit is required to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or decorative pole in the public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

(b) Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way shall submit an application to the Public Works Department for a permit. Applications are available from the Public Works Department. Any material change to information contained in an application, including a change in ownership of the small wireless facility or pole, shall be submitted in writing to the Public Works Department within 30 days after the events necessitating the change.

(c) Each application for a permit shall include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2), and (a)(3). Such maximum application fees shall automatically increase on January 1 of each year beginning on January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

(d) The Public Works Department shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.

(e) Applications for permits shall be approved except as follows:

(1) In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which: (i) the applicant has the right to collocate subject to reasonable terms and conditions; and (ii) such collocation would not impose technical limitations or significant additional costs. The applicant shall certify that is has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.

(2) The Public Works Department may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).

(3) For applications for new poles in the public right of way in areas zoned for residential use, the Public Works Department may propose an alternate location in the public right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the Public Works Department's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

(f) A permit issued under this Section 6-21-5 shall authorize such person to occupy the public rights of way to:

(1) Collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and

(2) Install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).

A permit issued under this Section 6-21-5 shall not create a property right or grant authorization or license to the applicant to impinge upon the rights of other persons that may already have an interest in the right of way.

(g) Upon the issuance of a permit under this Ordinance, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided however, that if such person removes its small wireless facilities from the public rights of way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this Section shall cease as of the date of the actual removal. The maximum annual payments due under this subsection (g) shall automatically increase on January of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

(h) Any person issued a permit shall pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.

(i) The City may revoke a permit issued pursuant to this Section 6-21-5 if the wireless provider or its equipment placed in the public right of way under that permit subsequently is not in compliance with any provisions of this Ordinance or the SWFAA. Upon revocation, the City may proceed according to subsection (j) of this Section.

(j) If a wireless provider occupies the public rights of way without obtaining a permit required by this Section 6-21-5 or without complying with the SWFAA, then the City may, at the sole discretion of the City, restore the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and then charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty not to exceed $1,000.00. The City may suspend the ability of the wireless provider to receive any new permits from the City under this Section 6-21-5 until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(k) All accepted applications for permits shall be publicly available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).

(l) An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.

(m) Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).

(n) Issuance of a permit authorizes the applicant to:

(1) Undertake the collocation, installation, modification, or replacement approved by the permit, and

(2) Operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of ten years.

(o) Permits shall be renewed following the expiration of the term identified in subsection (n) of this Section upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).

(p) If an application for a permit seeks to collocate small wireless facilities on City poles in the public rights of way, then the City shall, within 60 days of receipt of the completed application:

(1) Provide a good faith estimate for any make-ready work necessary to enable the City pole to support the proposed facility; or

(2) Notify the wireless provider that the wireless provider will be required to perform the make-ready work.

Any make-ready work performed by the City shall be completed pursuant to and in accordance with O.C.G.A. § 36-66C-7(n).

6-21-6. – Resolution of Conflicting Requests.

If multiple applications are received by the City to install two or more poles or decorative poles at the same location or to collocate two or more small wireless facilities on the same pole, decorative pole, or support structure, the City shall resolve conflicting requests by resolving the conflict in favor of the first application deemed complete.

6-21-7. – Removal; Relocation; Reconditioning; Replacement; Abandonment; Damage.

(a) An applicant or wireless provider may remove its small wireless facilities from the public rights of way according the procedures of O.C.G.A. § 36-66C-5(e).

(b) In the event of a removal under subsection (a) of this Section, the right of way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If an applicant or wireless provider fails to return the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right of way to such condition and charge the applicant or wireless provider the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed $500.00. The City may suspend the ability of the applicant or wireless provider to receive any new permits under Section 6-21-5 until the applicant or wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided however, that the City will not suspend such ability of any applicant or wireless provider that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(c) If, in the reasonable exercise of police powers, the City requires the widening, repair, reconstruction, or relocation of a public road or highway, or the relocation of poles, support structures, or small wireless facilities is required as a result of a public project, and the City finds that poles and support structures unreasonably interfere with the widening, repair,

reconstruction or relocation project or the public project, then the wireless provider shall relocate such poles and support structures pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l). If the wireless provider fails to relocate a pole or support structure or fails to provide a written good faith estimate of the time needed to relocate a pole or support structure within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City may take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.

(d) The City shall recondition and replace City poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).

(e) A wireless provider must notify the City of its decision to abandon any small wireless facility, support structure, or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

(f) The City may require a wireless provider to repair all damage to a right of way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining small wireless facilities, poles, or support structures, in such right of way and to restore the right of way to its condition before the damage occurred pursuant to the competitively neutral and reasonable requirements and specifications of the City. If the wireless provider fails to return the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the damage within 90 days of receipt of written notice from the City, the City may, at the sole discretion of the City, restore the right of way to such condition and charge the wireless provider its reasonable, documented cost of doing so, plus a penalty not to exceed $500.00. The City may suspend the ability of the wireless provider to receive any new permits from the City until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided however, that the City shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

6-21-8. – Standards.

(a) Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use: (i) upon a receipt of a permit under Section 6-21-5; (ii) subject to applicable codes; and (iii) so long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the applicable provisions of O.C.G.A. § 36-66C-7(h).

(b) New, modified, or replacement poles installed in the right of way in a historic district and/or in an area zoned primarily for residential use shall not exceed 50 feet above ground level.

(c) Each new, modified, or replacement pole installed in the right of way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:

(1) Fifty feet above ground level; or

(2) Ten feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole.

(d) New small wireless facilities in the public right of way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.

(e) New small wireless facilities in the public right of way collocated on a new or replacement pole under subsections (b) or (c) of this Section may not extend above the top of such poles.

(f) A decorative pole should only be located where an existing pole can be removed or replaced, or at a new location where the City has identified that a streetlight, traffic control device, or associated structure is necessary.

(g) Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:

(1) Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure or concealed such that the antenna appears to be part of the pole or support structure.

(2) Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.

(3) Antennas shall extend on the back of the pole to avoid interference with maintenance activities and equipment.

(4) Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.

(5) Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

(6) Wiring and cabling shall not interfere with existing City infrastructure and shall not coexist in the same conduit on or within a pole or support structure.

(h) Notwithstanding any provisions of this Ordinance to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following: (i) issuance of a permit under Section 6-21-5 and (ii) compliance with applicable codes.

(i) Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the even the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following: (i) issuance of a permit under Section 6-21-5 and (ii) compliance with applicable codes.

6-21-9. – Safety.

(a) An applicant or wireless service provider in the right of way shall employ due care during the installation and maintenance process and shall comply with all safety and right of way protection requirements of general applicability set forth in applicable law.

(b) All traffic control shall be performed in accordance with Part 6 of the latest version of the Manual on Uniform Traffic Control Devices (MUTCD). If traffic control is needed, the applicant or wireless service provider shall submit traffic control plans to the Public Works Department for review and approval and no construction shall commence until such approval has been granted.

(c) An applicant or wireless service provider in the right of way shall not place any small wireless facilities, support structures, poles, or decorative poles where they will interfere with any existing infrastructure or equipment, including traffic signal equipment, and shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual vehicular or pedestrian traffic patterns or with the rights or reasonable convenience of owners of property that abuts any right of way.

(d) If the authority determines that a wireless provider's activity in a right of way pursuant to this Chapter creates an imminent risk to public safety, the City may provide written notice to the wireless provider and demand that the wireless provider address such risk. If the wireless provider fails to reasonably address that risk within 24 hours of the written notice, the authority may take or cause to be taken action to reasonably address such risk and charge the wireless provider the reasonable documents costs of such actions.

(e) A City pole must be accessible by the City at all times.

6-21-10. - Owner Identification on Small Wireless Facilities.

The applicant or wireless service provider shall place a small permanent placard on the pole and/or small wireless facility identifying ownership and contact information. All placards shall be amended as necessary to reflect current ownership and current contact information.

SECTION II.

Chapter 6-17 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended by adding the following Section:

Sec. 6-17-8. – Exception.

Wireless providers (as that term is defined in O.C.G.A. § 36-66C-2) wanting to collocate small wireless facilities in the City right of way or to install, modify, or replace a pole or decorative pole in the City right of way on which a small wireless facility will be collocated are not subject to the provisions of Chapter 6-17, but instead should follow the provisions and procedures set forth in Chapter 6-21.

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.

SECTION V.

The ordinance is enacted as an amendment to Title 6 of the Code of Ordinances of the City of Gainesville, Georgia.

SECTION VI.

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

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

Date Submitted: 8/5/2019

Presenter: Linda MacGregor

Item of Business: **Ordinance No. 2019-25**
Amend Title 10 as it Pertains to Water Rate
AN ORDINANCE TO AMEND SUBSECTION (e) OF SECTION 10-1-41 ENTITLED "CLASSIFICATION OF USERS AND RATE SCHEDULE" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS 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: 8/20/2019

Purpose of Request:

To lower the differential for outside city water customers from 2.0 to 1.9 times the standard water rate.

History/Background:

Water rates are set to be fair and equitable and to recover the costs necessary to provide the service. Rates are set on classifications of customers, including inside and outside of the city limits. Detailed financial analyses are conducted periodically to evaluate the rates.

Facts & Issues for Consideration:

At this time, we recommend that the differential be reduced from 2.0 to 1.9 for customers located outside the city limits. This change was incorporated into the fiscal year 2020 budget.

Department Recommendation:

The Department of Water Resources recommends approval of the proposed ordinance reducing the differential from 2.0 to 1.9.

Department Director:

Linda MacGregor

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

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

	Description	Type
🗋	Ordinance 2019-25 Amend Title 10 as it Pertains to Water Rate	Ordinance

Passed: _____

AN ORDINANCE

No. 2019-25

AN ORDINANCE TO AMEND SUBSECTION (e) OF SECTION 10-1-41 ENTITLED "CLASSIFICATION OF USERS AND RATE SCHEDULE" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS 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.

Subsection (e) of Section 10-1-41 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to read as follows:

Section 10-1-41. Classification of users and fee schedule.

(e) *Fees charged.*

Fee per Month		
	Inside City	Outside City
Account Service Fee	$ 6.17	$ 6.17
Quantity Used Per Month in Units of 100 Cubic Feet		
Block 1 Unit Fee	$ 2.53	$ 4.81
Block 2 Unit Fee	$ 3.16	$ 6.00
Block 3 Unit Fee	$ 5.06	$ 9.61

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.

The ordinance is enacted as an amendment to Title 10 of the Code of Ordinances of the City of Gainesville, Georgia.

SECTION V.

The effective date of this ordinance shall be September 1, 2019.

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