

RESOLUTION NO. 021127

A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA PERTAINING TO THE ISSUANCE OF THE INDUSTRIAL DEVELOPMENT REVENUE BONDS REFERENCED BELOW IN COMPLIANCE WITH SECTION 103(a) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; AUTHORIZING THE ISSUANCE OF THE CITY OF GAINESVILLE, FLORIDA INDUSTRIAL DEVELOPMENT REVENUE BONDS (GAINESVILLE HILLEL, INC. PROJECT), SERIES 2003, IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$5,000,000, FOR THE PURPOSE OF MAKING A LOAN OF FUNDS TO GAINESVILLE HILLEL, INC. IN ORDER TO FINANCE OR REFINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN SOCIAL SERVICE CENTER FACILITY IN GAINESVILLE, FLORIDA; PROVIDING THAT SUCH REVENUE BONDS SHALL NOT CONSTITUTE A DEBT, LIABILITY OR OBLIGATION OF THE CITY OF GAINESVILLE, FLORIDA OR THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF, BUT SHALL BE PAYABLE SOLELY FROM THE REVENUES HEREIN PROVIDED; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH GAINESVILLE HILLEL, INC. TO PROVIDE SECURITY FOR SUCH BONDS, AND FOR OTHER MATTERS THEREIN PROVIDED; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST; APPOINTING SUNTRUST BANK AS INITIAL TRUSTEE THEREUNDER; AUTHORIZING THE MAYOR OR MAYOR-COMMISSIONER PRO TEMPORE TO AWARD THE SALE OF THE BONDS TO THE PURCHASER OR PURCHASERS DESIGNATED BY THE NORTHERN TRUST COMPANY AND APPROVING THE CONDITIONS AND CRITERIA OF SUCH SALE; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PLACEMENT AND REMARKETING AGREEMENT AND DESIGNATING THE NORTHERN TRUST COMPANY AS THE INITIAL REMARKETING AGENT AND MAKING CERTAIN OTHER APPOINTMENTS; APPROVING THE FORM OF A LETTER OF CREDIT TO SECURE THE BONDS; APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF A TAX REGULATORY AGREEMENT; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN OTHER DOCUMENTS REQUIRED IN CONNECTION WITH THE FOREGOING; AND PROVIDING CERTAIN OTHER DETAILS IN CONNECTION THEREWITH.

BE IT RESOLVED by the City Commission of the City of Gainesville, Florida (the "Issuer") that:

SECTION 1. This Resolution is adopted pursuant to the Constitution of the State of Florida, Chapter 166, Florida Statutes, Part II of Chapter 159, Florida Statutes, as amended, the Charter of the Issuer and other applicable provisions of law (collectively, the "Act").

SECTION 2. "Mayor" as used herein refers to the Mayor or the Mayor-Commissioner Pro Tempore unless specifically indicated otherwise. Throughout this Resolution when reference is made to "Mayor," the Mayor or Mayor-Commissioner Pro Tempore may act independently and interchangeably in performing the duties and functions resolved herein. Throughout this Resolution, the term "Clerk" as used herein refers to the Clerk of the Commission of the Issuer or any Deputy Clerk unless specifically indicated otherwise and when reference is made to the "Clerk," the Clerk or any Deputy Clerk may act independently and interchangeably in performing the duties and functions resolved herein. All other terms used herein in capitalized form, unless otherwise defined herein, shall have the same meanings as ascribed to them in Resolution No. 021073 pertaining to the Bonds referenced below (the "Inducement Resolution"), adopted by the City Commission of the Issuer on April 14, 2003.

SECTION 3. The Issuer hereby finds, determines and declares as follows:

A. In the Inducement Resolution, the Issuer authorized the issuance of industrial development revenue bonds (the "Bonds") in an aggregate principal amount not to exceed \$5,000,000 upon various conditions named therein, in order to loan funds to Gainesville Hillel, Inc., a Florida not-for-profit corporation (the "Borrower") to finance or refinance the acquisition, construction and equipping of a social service center facility in Gainesville, Florida (the "Project").

B. Pursuant to the Inducement Resolution, the Borrower has now arranged for the acquisition, construction and equipping of the Project.

C. The Issuer is authorized under the Act to finance the Project as herein contemplated and to fully perform the obligations of the Issuer in connection therewith in order to promote the industrial economy of the City of Gainesville and the State of Florida, increasing and preserving opportunities for gainful employment and purchasing power, improving the prosperity and welfare of the State of Florida and its inhabitants, and otherwise contribute to the prosperity, health and welfare of the City of Gainesville, the State of Florida and the inhabitants thereof.

D. The Issuer has initially determined that the interest on the Bonds will be excluded from gross income for federal income tax purposes under Section 103(a) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder (the "Code"), based in part on a certificate to be obtained from the Borrower; and the Bonds will not be issued unless the Issuer has received

a satisfactory opinion of bond counsel regarding the fact that the interest on such Bonds will be excluded from gross income at the time of the delivery of the Bonds.

E. Based upon representations of, and information provided by, the Borrower regarding the nature of the Project, the Project constitutes a "social service center" and a "project" within the meaning and contemplation of the Act, is appropriate to the needs and circumstances of, and shall make a significant contribution to the economic growth of the City of Gainesville, Florida, shall provide or preserve gainful employment and shall serve a public purpose by advancing the economic prosperity and the general welfare of the State of Florida and its people and by improving living conditions within the State of Florida.

F. The City of Gainesville, Florida, will be able to cope satisfactorily with the impact of the Project and will be able to provide, or cause to be provided when needed, the public facilities, including utilities and public services, that will be necessary for the construction, operation, repair and maintenance of the Project and on account of any increases in population or other circumstances resulting therefrom; provided, however, that Issuer, by making this finding, in no way waives its right or governmental authority to require the Borrower to comply with concurrency requirements or other requirements of the City of Gainesville Comprehensive Plan, Land Development Code, Code of Ordinances or other City regulations.

G. Based solely upon representations made by the Borrower, the availability of financing or refinancing by means of industrial development revenue bonds was and is an important inducement to the Borrower to proceed with the acquisition, construction and equipping of the Project.

H. The Bonds shall not be deemed to constitute a debt, liability or obligation or a pledge of the faith and credit or taxing power of the Issuer or the State of Florida or of any political subdivision thereof, but the Bonds shall be payable solely from the revenues and proceeds to be derived by the Issuer from certain of the payments received under the financing agreements entered into between the Issuer and the Borrower or from an irrevocable direct pay letter of credit provided as security for the Bonds.

I. Adequate provision has been made in the documents referred to herein for a loan by the Issuer to the Borrower to finance or refinance the acquisition, construction and equipping of the Project and thereafter for the operation, repair and maintenance of the Project at the expense of the Borrower and for the repayment by the Borrower of the loan in installments sufficient to pay the principal of and the interest on the Bonds and all costs and expenses relating thereto in the amounts and at the times required.

J. The Borrower and The Northern Trust Company (in such capacity, the "Bank"), which will issue the Letter of Credit, as that term is

hereinafter defined, are, based on the criteria established by the Act, financially responsible, the Borrower is fully capable and willing to fulfill its obligations under the Loan Agreement (the "Agreement") between the Borrower and the Issuer, including the obligation to repay the loan in installments in the amounts and at the times required, the obligation to operate, repair and maintain the Project at the Borrower's own expense and such other obligations and responsibilities as are imposed under the Agreement. The payments to be made by the Borrower to the Issuer and the other security provided by the Agreement, the Indenture and the Letter of Credit, as those terms are hereinafter defined, are adequate within the meaning of the Act for the security of the Bonds.

K. The Issuer is not obligated to pay the Bonds except from the proceeds derived from the repayment of the loan to the Borrower, or from the other security pledged therefor or from draws under the Letter of Credit, as hereinafter defined, and neither the faith and credit nor the taxing power of the Issuer or the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or the interest on the Bonds.

L. The Issuer and the Borrower will concurrently with the issuance of the Bonds execute the documentation required for the financing or refinancing of the Project as contemplated hereby.

M. A negotiated sale of the Bonds is required and necessary and is in the best interest of the Issuer for the following reasons: the Bonds will be special and limited obligations of the Issuer payable out of moneys derived by the Issuer from the Borrower's operation of the Project or as otherwise provided herein and in the Agreement and will be secured by funds of the Borrower and the Bank; the Borrower will be required to pay all costs of the Issuer in connection with the financing; the cost of issuance of the Bonds, which must be borne directly or indirectly by the Borrower would most likely be greater if the Bonds were sold at public sale by competitive bids than if the bonds are sold at negotiated sale, and there is no basis, considering prevailing market conditions, for any expectation that the terms and conditions of a sale of the Bonds at public sale by competitive bids would be any more favorable than at negotiated sale; because prevailing market conditions are uncertain, it is desirable to sell the Bonds at a predetermined price; and industrial development revenue bonds having the characteristics of the Bonds are typically sold at negotiated sale under prevailing market conditions.

N. The Northern Trust Company, as placement agent (in such capacity, the "Placement Agent") to the Borrower, has provided, or prior to the issuance of the Bonds will provide, to the Issuer a disclosure statement containing the information required by Section 218.385(6), Florida Statutes. Said Disclosure containing such statutorily-required information shall be acceptable to the Issuer and the Issuer will not require any further disclosure from the Placement Agent.

O. The Placement Agent has submitted a proposal to place the Bonds pursuant to the terms of the Placement and Remarketing Agreement hereinafter more particularly described (the "Placement Agreement").

P. The purposes of the Act will be more effectively served by awarding, or causing to be awarded, contracts for the construction, improvement, installation and equipping of the Project upon a negotiated basis rather than by awarding, or causing to be awarded, such contracts based on competitive bids.

Q. The costs of the Project will be paid from the proceeds of the Bonds in accordance with the terms of the Agreement and the Indenture (as hereinafter defined), and these costs constitute costs of a "project" within the meaning of the Act.

R. A public hearing concerning the issuance of the Bonds by the Issuer to finance or refinance the acquisition, construction and equipping of the Project on the Project Site, at which comments and discussions from interested persons were solicited and heard, was held by the Issuer on April 14, 2003, after and pursuant to appropriate publication of notice thereof in *The Gainesville Sun*, a newspaper of general circulation in the City of Gainesville, Florida, at least fourteen (14) days in advance of said hearing.

S. All conditions precedent to the acquisition, construction and financing or refinancing of the Project and the Project Site set forth in the Inducement Resolution have been satisfied, or will be satisfied prior to the delivery of the Bonds, and the proposal for the issuance of the Bonds will otherwise comply with all of the provisions of the Act.

T. It is in the best interest of the Issuer to award the sale of the Bonds to the original purchaser or purchasers designated by the Placement Agent pursuant to the Placement Agreement and approved by the Mayor pursuant to the terms and conditions of the Purchase Agreement.

SECTION 4. All actions taken by the Issuer in connection with its April 14, 2003 meeting, pertaining to the adoption of the Inducement Resolution and the execution of the Memorandum of Agreement referred to therein (the "Memorandum of Agreement") are hereby ratified and confirmed in all respects.

SECTION 5. The acquisition, construction, improvement and equipping of the Project as contemplated herein is hereby authorized.

SECTION 6. For the purpose of paying a portion of the cost of the Project, subject and pursuant to the provisions hereof, the issuance of revenue bonds of the Issuer under the authority of the Act in the original aggregate principal amount of \$5,000,000, or in such lesser amount as hereinafter provided, is hereby authorized. Such Bonds shall be designated "City of Gainesville, Florida Industrial Development Revenue Bonds (Gainesville Hillel, Inc. Project), Series

2003," and subject to the award of the sale thereof as hereinafter provided and payment as provided in the Indenture of Trust by and between the Issuer and the trustee thereunder, the form of which is on file with the office of the Clerk (the "Indenture"), shall be issued in the name of and delivered to the purchaser or purchasers designated upon the advice of the Placement Agent (the "Purchaser") or as otherwise directed by the Mayor. The sale of the Bonds in an aggregate principal amount which shall not exceed \$5,000,000 at a purchase price of par (the "Purchase Price") and at an initial rate of interest, as approved by the Mayor of not to exceed 12% (the "Maximum Initial Rate"), to the Purchaser, is hereby authorized, the Mayor's approval of such Purchaser and the initial rate to be conclusively evidenced by the execution by the Mayor of an order to the Trustee to authenticate and deliver the Bonds to or upon the order of such Purchaser.

The Mayor is hereby authorized and directed to award the sale of the Bonds in the aggregate principal amount of not to exceed \$5,000,000, at the Purchase Price to the Purchaser designated by the Placement Agent. (Notwithstanding the foregoing, a fee to the Placement Agent may be withheld from the Purchase Price.)

Subject to the limitations set forth in the first paragraph of this Section 7, the Bonds shall be dated such date, shall bear interest at such rates (not in excess of 12% per annum) and in such interest rate mode, shall be payable and shall mature on such date or dates, shall be issued in such denominations, shall be subject to optional, extraordinary and mandatory redemption at such time or times, and upon such terms and conditions, shall be subject to optional tender at such time or times and upon such terms and conditions, shall be payable at the place or places and in the manner, shall be executed, authenticated and delivered, shall otherwise be in such form and subject to such terms and conditions, all as provided in the Indenture, as may be established by resolution of the Issuer adopted prior to the issuance of the Bonds, or as may be approved by the Mayor, and the authority to approve such matters is hereby expressly delegated to the Mayor, with such approval to be conclusively evidenced by the Mayor's execution of the Bonds or any other documents including such terms.

The Bonds and the premium, if any, and the interest thereon shall not be deemed to constitute a general debt, liability or obligation of the Issuer or the State of Florida or of any political subdivision thereof, or a pledge of the faith and credit or taxing power of the Issuer or the State of Florida or of any political subdivision thereof, but shall be payable solely from the revenues provided therefor, and the Issuer is not obligated to pay the Bonds or the interest thereon except from the revenues and proceeds pledged therefor and neither the faith and credit nor the taxing power of the Issuer or the State of Florida or any political subdivision thereof, is pledged to the payment of the principal of or the interest on the Bonds.

SECTION 7. In order to secure the payment of the principal of, premium, if any, and the interest on the Bonds herein authorized, according to their

tenor, purport and effect, and in order to secure the performance and observance of all of the covenants, agreements and conditions in said Bonds, the execution and delivery of the Indenture, a proposed form of which is on file with the office of the Clerk, is hereby authorized. The form of the Indenture is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved and made in such form of Indenture by either of the officers of the Issuer executing the same, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. SunTrust Bank is hereby designated as the initial trustee (in such capacity, the "Trustee") under the Indenture. The Mayor is hereby designated and appointed the Issuer Representative under the terms of the Indenture and the Mayor-Commissioner Pro Tempore is hereby appointed as an alternate Issuer Representative.

SECTION 8. As authorized by and in conformity with the Act, it is desirable and in the public interest that the Issuer loan funds to the Borrower to pay the costs of the Project, such loan to be evidenced by the Agreement between the Issuer and the Borrower, a proposed form of which is on file with the office of the Clerk, and the execution and delivery of the Agreement is hereby authorized, and the assignment of certain rights of the Issuer under the Agreement by the Issuer to the Trustee is hereby authorized. The form of the Agreement is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved and made in the form of the Agreement by either of the officers of the Issuer executing the same and by the Borrower, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of any such approval.

SECTION 9. To provide additional security for the payment of the Bonds, and for the payment by the Borrower of its obligations under the Agreement, the Borrower has agreed to obtain from the Bank, an irrevocable direct pay letter of credit (the "Letter of Credit") and to enter into a Reimbursement Agreement (the "Reimbursement Agreement") with the Bank. The form of the Letter of Credit, in the form on file with the office of the Clerk, is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved in such form by the Borrower, the Bank and the Mayor (issuance of the Bonds to constitute conclusive evidence of such approval).

SECTION 10. In order to evidence the undertaking of the Placement Agent to place the Bonds with the Purchaser, and to set forth the terms and conditions of such sale, the Placement Agent, the Borrower and the Issuer will enter into the Placement Agreement, a proposed form of which is on file with the office of the Clerk. In order to obtain the lowest possible interest rate in connection with the initial issuance of the Bonds, the Borrower has agreed to permit the Bonds to contain provisions allowing them to be tendered back to the Trustee by the bondholders and to then be remarketed, and to the extent that they cannot be remarketed, the Trustee has agreed to purchase the Bonds on behalf of the Borrower through payments from the Borrower or a draw on the Letter of Credit.

The Placement Agreement will accommodate such structure, with the Placement Agent acting as remarketing agent for the Bonds. The terms of the Placement Agreement in the form on file with the Office of the Clerk are hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein and attaching of exhibits thereto as may be approved by either of the officers of the Issuer executing the same, the Borrower, the Placement Agent and the Purchaser, such execution to be conclusive evidence of such approval. There is hereby delegated by the Issuer to the Borrower the ability to appoint a remarketing agent under the Indenture with authority as is necessary for the establishment of the interest rate on the Bonds and to carry out all duties of the remarketing agent established by the Indenture.

SECTION 11. The Issuer hereby approves the delivery of a Tax Regulatory Agreement and No Arbitrage Certificate for the Bonds (the "Tax Regulatory Agreement") between the Issuer and the Borrower, a proposed form of which is on file with the office of the Clerk. The form of the Tax Regulatory Agreement is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved by either officer of the Issuer executing the same and by the Borrower, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval.

SECTION 12. Certain rights of the Issuer under the Agreement shall be assigned by the Issuer to the Trustee under the terms of the Indenture, all as set forth in the Indenture.

SECTION 13. The Mayor and the Clerk, subject to the approval of the City Attorney as to form and legality, are, subject to the terms hereof, hereby authorized and empowered to execute and deliver the Bonds, the Indenture, the Agreement, the Placement Agreement, the Tax Regulatory Agreement, and all documents contemplated thereby, in each case, subject to such changes and modifications as either of such officers may approve, such execution to be conclusive evidence of any such approval, and to affix thereto or impress thereon, the seal of the Issuer.

SECTION 14. The Issuer and the officers, employees and agents of the Issuer acting on behalf of the Issuer are hereby authorized and directed to execute such documents, instruments and contracts, whether or not expressly contemplated hereby, and to do all acts and things required by the provisions of this Resolution and by the provisions of the Bonds, the Indenture, the Agreement, the Reimbursement Agreement, the Tax Regulatory Agreement, the Letter of Credit and the Placement Agreement authorized herein, as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution, or as may be requested by the Placement Agent, the Bank, the Purchaser, the Borrower or the Trustee. The Mayor and the Clerk are hereby designated as the primary officers of



the Issuer charged with the responsibility of issuing the Bonds, and the Mayor is hereby authorized to delegate to any other person any of the duties or authorizations of the Mayor or the Clerk hereunder. All documents to be executed by the Issuer shall be subject to the approval of the City Attorney as to form and legality.

SECTION 15. In case any one or more of the provisions of this Resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Resolution, and this Resolution shall be construed and enforced as if such illegal or invalid provision had not been contained herein. This Resolution is adopted and the Indenture and the Agreement shall be executed, and the Bonds shall be issued, with the intent that the laws of the State of Florida shall govern their construction, except as shall otherwise be expressly provided by the terms thereof.

SECTION 16. All parts of the Inducement Resolution and the other agreements contemplated thereby not in conflict with the express terms hereof are hereby reaffirmed. All resolutions or parts thereof in conflict herewith are hereby repealed.

SECTION 17. This Resolution shall become effective immediately upon its adoption.

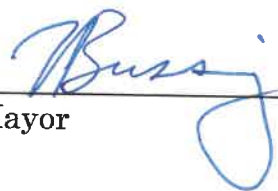
PASSED AND ADOPTED this 28<sup>th</sup> day of April, 2003.

CITY OF GAINESVILLE, FLORIDA

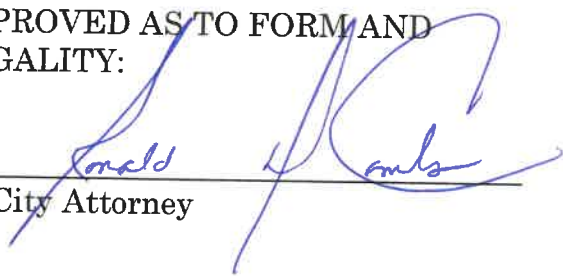
(SEAL)

ATTEST:

By:   
Clerk of the Commission

By:   
Mayor

APPROVED AS TO FORM AND LEGALITY:

By:   
City Attorney

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