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A Resolution approving the final plat of "Walnut Creek, A Planned Development, Phase I", located in the vicinity of the south side of N.W. 39th Avenue between N.W. 25th Court and N.W. 27th Court; authorizing the Mayor and Clerk of the Commission to execute a Tri-Party Agreement and accepting a Letter of Credit for the construction of improvements; and providing an immediate effective date.

WHEREAS, the Development Review Board approved the design plat of "Walnut Creek, A Planned Development, Phase I' on February 8, 2001; and

WHEREAS, the owner of the plat has submitted a final plat which substantially conforms to the design plat as approved by the City Commission on March 26, 2001 and which incorporates all modifications and revisions specified in such approval; and

WHEREAS, the owner of the proposed subdivision has requested the City Commission to accept and approve the final plat as provided in Chapter 177 of the Florida Statutes and Chapter 30 of the Code of Ordinances of the City of Gainesville, Florida; and

WHEREAS, the City Commission finds that the final plat described herein is consistent with the City of Gainesville 1991-2001 Comprehensive Plan and the City of Gainesville 2000-2010 Comprehensive Plan as adopted by Resolution No. 002684.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA;

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Section 1. The final plat of "Walnut Creek, A Planned Development, Phase I" is accepted and approved by the City Commission on the following described property lying in the City of Gainesville, Alachua County, Florida:

(See Exhibit "A" attached hereto and made a part hereof as if set forth in full)

Section 2. The Mayor and Clerk of the Commission are authorized to execute a Tri-Party Agreement with a lending institution and the subdivider that deposits with the City the letter of credit that secures the construction and completion of the improvements required under the ordinances of the City of City of Gainesville, a copy of which agreement is attached hereto as Exhibit "B".

Section 3. The Clerk of the Commission is authorized and directed to affix his signature to the record plat on behalf of the City Commission and accept the dedication of public rights-of-way, easements, and other dedicated portions as shown on the plat.

PASSED AND ADOPTED this	day of, 2002.
ATTEST:	Thomas D. Bussing, Mayor APPROVED AS TO FORM AND LEGALIT
Kurt Lannon, Clerk of the Commission	Marion J. Radson, City Attorney

EXHIBIT "A"

A TRACT OF LAND SITUATED IN SECTION 25, TOWNSHIP 9 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE AFOREMENTIONED SECTION 25, TOWNSHIP 9 SOUTH, RANGE 19 EAST FOR THE POINT OF REFERENCE AND RUN S.00'57'04"E., ALONG THE WEST LINE OF SAID NORTHEAST 1/4, A DISTANCE OF 50.15 FEET TO THE SOUTH RIGHT OF WAY LINE OF N.W. 39th AVENUE (100 FOOT RIGHT OF WAY); THENCE RUN N.89° 34'14"E., ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 440.13 FEET TO A CONCRETE MONUMENT (STAMPED PRM LS #3784) AND THE TRUE POINT OF BEGINNING; THENCE CONTINUE N.89'34'14"E., ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 880.35 FEET TO A CONCRETE MONUMENT (STAMPED: PRM L.S. #3784) AT THE NORTHWEST CORNER OF PALM GROVE SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK "T", PAGE 52 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE RUN S.00'56'22"E., ALONG THE WEST LINE OF SAID PALM GROVE SUBDIVISION, A DISTANCE OF 672.97 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784); THENCE RUN S.89'03'38"W., PERPENDICULAR TO SAID WEST LINE, A DISTANCE OF 20.00 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) WHICH MARKS THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, SAID CURVE HAVING A RADIUS OF 20.00 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE. THROUGH A CENTRAL ANGLE OF 89"29'24", AN ARC DISTANCE OF 31.24 FEET (CHORD BEARING AND DISTANCE BEING N.45'41'04"W., 28.16 FEET RESPECTIVELY) TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) WHICH MARKS THE END OF SAID CURVE; THENCE RUN S.89'34'14"W., A DISTANCE OF 95.19 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784); THENCE RUN S.00°56'22"W., A DISTANCE OF 14.97 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784); THENCE RUN S.89°34'14"E., A DISTANCE OF 262.54 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) WHICH MARKS THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, SAID CURVE HAVING A RADIUS OF 100.00 FEET; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 32°57'54", AN ARC DISTANCE OF 57.53 FEET (CHORD BEARING AND DISTANCE BEING N.73'56'49"W.; 56.74 FEET RESPECTIVELY) TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784); THENCE RUN S.00'29'21"E., A DISTANCE OF 88.39 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) WHICH IS LOCATED ON THE NORTH LINE OF HIDDEN PINES SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK "H", PAGE 63 OF SAID PUBLIC RECORDS; THENCE RUN S.89'30'39"W., ALONG THE NORTH LINE OF SAID HIDDEN PINES SUBDIVISION, A DISTANCE OF 435.02 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) AT THE NORTHEAST CORNER OF LOT 1 OF SAID HIDDEN PINES SUBDIVISION; THENCE RUN N.OO' 22'59"W., A DISTANCE OF 741.01 FEET TO THE TRUE POINT OF BEGINNING. CONTAINING 14.238 ACRES, MORE OR LESS.

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AGREEMENT WALNUT CREEK, PHASE I

SUNTRUST BANK, NORTH CENTRAL FLORIDA, has issued a letter of credit to the City of Gainesville on behalf of LUTHER E. BLAKE, JR. & IRENE BLAKE CAUDLE, hereinafter known as "Blake & Caudle", hereinafter together with GEORGE E. FLETCHER & GLORIA W. FLETCHER, shall be referred to as the "Developer", which letter of credit (a copy of which is attached hereto as Exhibit "A") is issued pursuant to §30-186, Gainesville Code, as security for the construction of improvements for the installation of street, drainage, alleys and other improvements on Walnut Creek, Phase I.

W.G. Johnson & Son, Inc., hereinafter referred to as the Contractor, has contracted for a total contract price of \$600,000.00 to install and pave the streets, necessary drainage, wastewater collection system, water distribution system and other improvements required under applicable law. The letter of credit is issued as security to pay for the completion of these improvements.

The applicable ordinances of the City of Gainesville require that assurances be given before a subdivision is platted; that the proposed improvements will be completed within a reasonable time to the standards required by the City Engineer for acceptance and maintenance by the City after completion and as a condition of the acceptance of the plan of this proposed subdivision for recording.

As a condition of the acceptance of the plat of this proposed subdivision for recording, the City has reviewed the Contract and the Contract price relating to these improvements to establish that such sum is sufficient for normally anticipated costs.

A letter of credit for \$720,000.00 (120% of the Director of Public Works-approved estimate of the costs of the improvements) is irrevocably issued as security for the completion and payment for construction of the required subdivision improvements and may not be used for any other purpose until such improvements are in place and accepted by the City. The letter of credit shall be security commencing with final plat approval until completion of the improvements and accepted by the City Director of Public Works or until 5:00 p.m. Eastern Daylight Savings Time, on a date one (1) year from final plat approval, whichever first occurs.

Should the Contractor default in performance under this Contract, the Developer agrees to engage another Contractor within thirty (30) days to complete these improvements. The selection of the other Contractor will be subject to approval by the City. Should the Developer not proceed to relet the Contract within such time period of a default by the present Contractor, the City shall be entitled, but shall not be obligated, to complete the improvements so that the City will accept permanent maintenance and use, for the purpose of paying for such completion, the letter of credit attributable to this Contract shall be used to pay to complete the improvements.

No payments shall be made to the Contractor without the prior approval of the Department of Public Works for the City of Gainesville. Any payments shall be for a sum equal to labor and materials to the date less a 10% retainage.

This Agreement may be substituted by other appropriate security provided in Section 30-186 Gainesville Code upon approval of form by the City Attorney.

The completion may be by another Contractor or by the City directly, whichever shall be determined by the City to be most appropriate for an early completion of the improvements and final acceptance by the City.

The Developer and the Contractor agres to prosecute the construction of these improvements in a reasonably diligent manner to assure completion within 150 days from recording of the plat. If in the judgment of the City Director of Public Works, the progress of construction is falling behind schedule, the City Director of Public Works may so advise the Developer who shall then be bound to take corrective measures.

Should the City have to take over and complete or have completed the subdivision improvements required by City ordinances, then the obligation of the Lender pursuant to the letter of credit to pay a sum equal to the cost of such improvements to the City or make such sum available shall exist independent of and regardless of whether or not the Developer may be in default on its agreement,

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