

LEGISLATIVE #

170660D

THIS DOCUMENT WAS PREPARED BY
AND AFTER RECORDING, RETURN TO:

HOLLAND & KNIGHT LLP
50 North Laura Street, Suite 3900
Jacksonville, FL 32202
Attn: Missy Turra

DECLARATION OF EASEMENTS

This **DECLARATION OF EASEMENTS** (this "**Declaration**") is made as of _____, 2018, by **THE CITY OF GAINESVILLE, FLORIDA** ("**Declarant**").

A. Declarant owns that certain real property in Alachua County, Florida, more particularly described on **Exhibit "A"**, attached hereto and incorporated herein by reference ("**Parcel 1**").

B. Declarant owns that certain real property in Alachua County, Florida, more particularly described on **Exhibit "B"**, attached hereto and incorporated herein by reference ("**Parcel 2**"). Parcel 1 and Parcel 2 are collectively referred to as "**Declarant's Property**."

C. Declarant desires to create in favor of itself, its successors and assigns, easements for cross access, parking, drainage, and utilities on, over and across Parcel 2, as more particularly set forth in this Declaration.

NOW, THEREFORE, in consideration of \$10.00 and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant states as follows:

1. Grant of Easements for the Benefit of Parcel 1. Declarant hereby grants to itself, and to all present and future owners or tenants (collectively, the "**Owners**") of Parcel 1, the following nonexclusive, perpetual easements which are hereby imposed upon Parcel 2:

- a. An easement for access, ingress, and egress over all paved driveways, roadways, and walkways as presently or hereafter constructed and constituting a part of Parcel 2, so as to provide for the passage of motor vehicles and pedestrians between all portions of Parcel 1 and Parcel 2, and to and from all abutting public roadways, streets, or rights of way furnishing access to Declarant's Property;
- b. An easement for parking upon common, unassigned parking spaces located within Parcel 2; provided however such parking easement shall not be deemed to be an easement over any limited common element and/or assigned parking spaces located on any portion of Parcel 2;
- c. An easement upon, under, over, above, and across Parcel 2 (including, without limitation, the pond on Parcel 2 which is adjacent to Parcel 1) for (i) the discharge, drainage, detention, and retention of storm water runoff under and

across those portions of Parcel 2 that are outside of exterior walls of buildings or other structures from time to time located on Parcel 2, and which are either unimproved, or are improved as (without limitation) parking areas, paved service areas, sidewalks, ramps, landscaped areas, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits, and other similar exterior site improvements, but specifically excluding any drive-thru lanes or stacking lanes associated with any drive-thru facilities (collectively, the “**Common Areas**”); and (ii) the use of storm water collection, retention, detention, and distribution lines, conduits, pipes, and other apparatus (collectively, “**Storm Water Facilities**”) from time to time located on, under, and across Parcel 2 serving the building from time to time located within Parcel 1; and

- d. An easement under and across those parts of the Common Areas for use of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, electrical lines, gas mains, gas lines, and other utility facilities (collectively, “**Utility Facilities**”) from time to time located on Parcel 2 serving the building from time to time located within Parcel 1.

The Owner of Parcel 2 retains the right to use the easement areas on Parcel 2 granted in this Section 1 for any use not inconsistent with the easement rights granted hereunder, which permitted uses include, without limitation, the construction, operation and maintenance of drive aisles, Storm Water Facilities, Utility Facilities, parking areas, sidewalks, landscaping, irrigation, and curbing. The Owner of Parcel 2 retains the right, upon prior, written notice to the Owner of Parcel 1, to relocate all or a portion of any easement area located upon Parcel 2, from time to time and at its sole cost and expense.

2. Grant of Easements for the Benefit of Parcel 2. Declarant hereby grants to itself, and to all present and future owners, tenants and/or any condominium association created with respect to Parcel 2 (collectively, the “**Owners**”) of Parcel 2, the following nonexclusive, perpetual easements which are hereby imposed upon Parcel 1:

- a. An easement upon, under, over, above, and across Parcel 1 for (i) the discharge, drainage, detention, and retention of storm water runoff under and across those portions of Parcel 1 that are located within any Common Areas; and (ii) the use of Storm Water Facilities from time to time located on, under, and across Parcel 1 serving the buildings from time to time located within Parcel 2; and
- b. An easement under and across those parts of the Common Areas for use of Utility Facilities from time to time located on Parcel 1 serving the buildings from time to time located within Parcel 2.

The Owner of Parcel 1 retains the right to use the easement areas on Parcel 1 granted in this Section 2 for any use not inconsistent with the easement rights granted hereunder, which permitted uses include, without limitation, the construction, operation and maintenance of drive aisles, Storm Water Facilities, Utility Facilities, parking areas, sidewalks, landscaping, irrigation, and curbing. The Owner of Parcel 1 retains the right, upon prior, written notice to the Owner of Parcel 2, to relocate all or a portion of any easement area located upon Parcel 1, from time to time and at its sole cost and expense.

3. General Storm Water and Utility Easement Provisions. Any construction, maintenance, repairs, or replacements required or permitted under this Declaration must be performed in a good and workmanlike manner and in accordance with all applicable laws, codes, rules, statutes, and regulations. The work must be carried out in a manner, and at such times, so as to cause the least amount of disruption to any business operations being conducted the other parcel as is reasonably practicable. Except in an emergency (in which case such notice as is reasonable under the circumstances must be provided), the right of any Parcel Owner to enter upon the other parcel for the repair of any Storm Water Facilities and/or Utility Facilities pursuant to this Declaration shall be conditioned upon such Parcel Owner providing reasonable prior advance written notice to the owner of the other parcel as to the time and manner of entry. Upon completing any repairs to the Storm Water Facilities and/or Utility Facilities pursuant to the easements granted under this Declaration, the owner making such repairs must promptly restore and repair, at its sole cost, the disturbed portions of the other parcel, and the disturbed portion of such Storm Water Facilities and/or Utility Facilities to as good or better condition as existed prior to the repairs undertaken.

4. Unimpeded Access. The Owner of Parcel 2 shall not erect any permanent barriers or dividers nor do anything to prohibit or discourage the free and uninterrupted flow of pedestrian and vehicular traffic over such curb cuts as exist from time to time between Declarant's Property and any public roads or rights of way.

5. Use of Easements. The rights and easements created by this Declaration shall be for the non-exclusive use and benefit of Declarant and present and future Owners of Parcel 1 and 2 respectively, as well as occupants, subtenants, agents, guests, invitees, and licensees, and their respective successors and assigns, as may be designated by each such Owner from time to time.

6. Remedies. In the event that an Owner of Declarant's Property shall prevail in any legal action to enforce this Declaration, the non-prevailing Owner shall reimburse to the prevailing Owner all reasonable attorneys', paralegals', and consultants' fees and other costs incurred in connection therewith.

7. Covenants to Run with Property. The Declaration shall inure to the benefit of, and be binding upon, the respective successors, successors-in-title and assigns of Declarant's Property.

8. Modification and Termination. The easements established by this Declaration may not be modified or terminated except by the consent of all the owners of Parcel 1 and Parcel 2 in a written instrument duly acknowledged and recorded in Alachua County, Florida. Notwithstanding the foregoing, at such time, if at all, as Parcel 2 is subject to a condominium regime (the "Condominium"), any amendment to or termination of this Agreement must be approved in writing by all owners of Parcel 1 and the condominium association created as part of the Condominium in a written instrument duly acknowledged and recorded in Alachua County, Florida. Further, at such time, if at all, as Parcel 1 is annexed into the Condominium, this Declaration shall automatically terminate and be of no further force or effect.

9. Extent of Liability. Any claim against an Owner will be confined to and satisfied only out of, and only to the extent of, such Owner's interest in a portion of Declarant's Property (including all rents, insurance proceeds, and any other proceeds generated therefrom while a violation of the terms of this Declaration exists during the period such portion of Declarant's Property is owned and/or leased by the applicable Owner) as such interest is constituted from time to time.

10. No Rights to Public. No part of this Declaration shall be construed as creating or granting any rights to the general public, nor shall any part be construed as dedicating any portion of Declarant's Property for public use.

11. Merger. This Declaration will not be subject to the doctrine of merger, even though the underlying fee ownership of Declarant's Property, or any parts thereof, is vested in one party or entity.

12. Miscellaneous. In the event any provision or portion of this Declaration is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof. This Declaration is to be governed, construed, and enforced in accordance with the laws of the State of Florida. Venue for any action related to this Declaration shall be in Alachua County, Florida. The failure of Declarant to exercise any right or remedy hereunder at any time shall in no way be construed to be a waiver of any such right or remedy or affect Declarant's right thereafter to enforce its rights and remedies under this Declaration as to the same or any other event or condition. This Declaration may be executed in multiple counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one Declaration. A counterpart of this Declaration shall be recorded in the real property records of Alachua County, Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the this Declaration has been executed as of the day and year first above written.

WITNESSES:

DECLARANT:

Print Name: _____

**THE CITY OF GAINESVILLE,
FLORIDA**

Print Name: _____

By: _____
Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 201__, by _____, the _____ of the City of Gainesville, Florida. He/she who is personally known to me OR has produced _____ as identification.

(SEAL)

Printed/Typed Name: _____
Notary Public-State of _____
Commission Number: _____

Exhibit "A"

Parcel 1 - Legal Description

A portion of Lot 105, LESS the West 20 feet for right-of-way, NEW GAINESVILLE, a subdivision per Plat Book "A", Page 66 of the Public Records of Alachua County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Lot 105, NEW GAINESVILLE, a subdivision as per Plat Book 'A', Page 66, of the Public Records of Alachua County, Florida; thence run N89°08'02"E a distance of 20.00 feet; thence run N00°37'01"W a distance of 786.32 feet; thence run N58°43'38"E a distance of 26.83 feet to the South right-of-way line of Hawthorne Road, A.K.A State Road Number 20; thence run 60°55'34"E along said right-of-way a distance of 164.31 feet to the Point of Beginning; thence continue S60°55'34"E along said right of way a distance of 165.71 feet; thence run S00°42'38"E a distance of 46.00 feet; thence run S28°55'56"W a distance of 160.50 feet; thence run N60°47'53"W a distance of 189.00 feet; thence run N29°05'11"E a distance of 200.00 feet to the Point of Beginning.

Exhibit "B"

Parcel 2 - Legal Description

A portion of Lot 105, LESS the West 20 feet for right-of-way, NEW GAINESVILLE, a subdivision per Plat Book "A", Page 66 of the Public Records of Alachua County, Florida, less lands described as Parcel 1 in the lot split to be recorded in said Public Records, being more particularly described as follows:

Commence at the Southwest corner of Lot 105, NEW GAINESVILLE, a subdivision as per Plat Book 'A', Page 66, of the Public Records of Alachua County, Florida; thence run N89°08'02"E a distance of 20.00 feet to the Point of Beginning; thence run N00°37'01"W a distance of 786.32 feet; thence run N58°43'38"E a distance of 26.83 feet to the South right-of-way line of Hawthorne Road, A.K.A State Road Number 20; thence run S60°55'34"E along said right-of-way a distance of 164.31 feet; thence run S29°05'11"W a distance of 200.00 feet; thence run S60°47'53"E a distance of 189.00 feet; thence run N28°55'56"E a distance of 160.50 feet; thence run S00°42'37"E a distance of 589.78 feet to the North right-of-way line of S.E. 8th Avenue; thence run S89°08'02"W, along said North right-of-way line, a distance of 309.59 feet to the Point of Beginning.