FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT

THIS FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT ("FIFTH AMENDMENT"), made and entered into this _19th_ day of _Sept_____, 2001, by and between the City Commission of the City of Gainesville, Florida, hereafter also called "EMPLOYER," and ALAN D. ASH, hereafter also called the "AUDITOR", both of whom understand as follows:

WITNESSETH:

WHEREAS, EMPLOYER has reviewed and evaluated the services of the City's Charter Officers, and desires to modify the benefits of AUDITOR as fully set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in the Employment Agreement dated October 1, 1989, the First Amendment to Employment Agreement dated July 31, 1990, the Second Amendment to Employment Agreement dated March 29, 1991, the Third Amendment to Employment Agreement dated November 23, 1993, the Fourth Amendment to Employment Agreement dated February 14, 1996 (hereinafter collectively referred to as the "Employment Agreement"), and the mutual covenants and agreements set forth in this Fifth Amendment, the City Commission and AUDITOR agree to amend the Employment Agreement as follows:

Section 1. Paragraphs 3D, 3G, and 3H of the Employment Agreement are amended in their entirety, to read:

3.   Salary and Related Matters.

D.   The following shall apply to AUDITOR's Annual Leave or Paid Time Off leave (PTO) and Personal Critical Leave Bank (PCLB) rights. The AUDITOR may elect at any time to change from the Annual Leave/Sick Leave System (Designated Leave/Old System) described in Personnel Policy 9, effective 2/26/01 as modified in this

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·circumstances, unless otherwise generally allowed for management employees of the City hired on or about AUDITOR'S leave progression date, or unless used to provide additional months of service for credited service under the City of Gainesville Employees Pension Plan or the City of Gainesville Employees Disability Plan, if applicable.

Section 2. Retirement is amended to read:

Section 5. Retirement

The AUDITOR elected to avail himself of the opportunity to re-enter the City of Gainesville General Employees Pension Plan as an eligible member and ceased having EMPLOYER contributions made to the §457 Deferred Compensation Plan, or the §401(a) Defined Contribution Plan, as described in Section 2-523(i) of the City of Gainesville Code of Ordinances. As of the effective date of such re-entry, the AUDITOR's right to retirement benefits, and the City's obligations relative thereto, are and will be governed by the terms of the City's Retirement and Deferred Compensation Plans of which AUDITOR is a member/participant. Provided further, however, that the amount of termination vacation (annual leave) pay that may be included in AUDITOR's final average earnings shall not exceed the amount that management employee, hired on AUDITOR's leave progression date, who was a member of the General Employees Pension Plan, would have been capable of including. Severance pay, if any, shall not be included in final average earnings when calculating AUDITOR's accrued benefit under the City of Gainesville Employees Pension Plan or the City of Gainesville Employees Disability Plan.

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Section 3. Except as otherwise provided herein, this Amendment and the changes in terms and conditions of employment described herein shall become effective the payroll period next after the date hereof.

Section 4. Except as hereinabove expressly modified, amended and changed, the terms, conditions and covenants of the Employment Agreement shall remain in full force and effect and shall govern and control the terms, conditions and provisions of this Fifth Amendment.
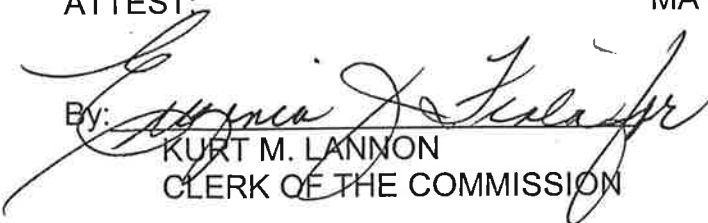
IN WITNESS WHEREOF, the EMPLOYER has caused this Fifth Amendment to be signed and executed on its behalf by its Mayor, and duly attested to by its Clerk of the Commission, and the AUDITOR has signed and executed this Fifth Amendment, both in duplicate on the respective dates under each signature.

EMPLOYER:

_____
THOMAS D. BUSSING,
MAYOR

ATTEST:

By: _____
KURT M. LANNON
CLERK OF THE COMMISSION

Date: Sept 19, 2001

_____
ALAN D. ASH, CITY AUDITOR

Date: 8/31/2001

HAUCK, ...
OF GAINESVILLE.
9/18/01

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