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RESOLUTION 002182

PASSED December 10, 2001

**A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA,
AUTHORIZING THE PARTICIPATION OF ELIGIBLE EMPLOYEES
IN A RETIREE HEALTH SAVINGS PLAN ADMINISTERED BY
THE ICMA RETIREMENT CORPORATION AND PROVIDING AN
EFFECTIVE DATE.**

13 **WHEREAS**, the City of Gainesville (“Employer”) has employees rendering
14 valuable services; and

15 **WHEREAS**, the establishment of a retiree health savings plan for such
16 employees serves the interests of the Employer by enabling it to provide reasonable
17 security regarding such employees’ health needs during retirement, by providing
18 increased flexibility in its personnel management system, and by assisting in the
19 attraction and retention of competent personnel.

20 **WHEREAS**, the Employer has determined that the establishment of the retiree
21 health savings plan (the “Plan”) serves the above objectives:

22 **NOW, THEREFORE, BE IT RESOLVED** by the City Commission of the City of
23 Gainesville, Florida:

24 **Section 1.** The City of Gainesville hereby adopts the Plan in the form of the
25 ICMA Retirement Corporation’s VantageCare Retirement Health Savings Program,
26 including but not limited to the Declaration of Trust of the City of Gainesville, Florida, the
27 Employer VantageCare Retirement Health Savings (RHS) Plan Adoption Agreement
28 and the City of Gainesville Retiree Medical and Dental Expense Reimbursement Plan,


1 which are attached hereto as Exhibit "A", and by reference made a part hereof as if set
2 forth in full below.

3 **Section 2.** The assets of the Plan shall be held in trust, with the Employer
4 serving as trustee, for the exclusive benefit of Plan participants and their beneficiaries,
5 and the assets of the Plan shall not be diverted to any other purpose prior to the
6 satisfaction of all liabilities of the Plan.

7 **Section 3.** The City Manager or designee(s) shall be the coordinator and
8 contact for the Plan and shall receive necessary reports, notices, etc. and is authorized
9 to execute any instrument necessary to effectuate the Program.

10 **Section 4.** The Mayor and Clerk of the Commission are hereby authorized to
11 execute the Adoption Agreement and Declaration of Trust on behalf of the City of
12 Gainesville.

13 **Section 5.** This resolution shall become effective immediately upon adoption.

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16 
17 _____
18 THOMAS D. BUSSING
19 MAYOR

20 ATTEST:

21 
22 _____
23 KURT M. LANNON
24 CLERK OF COMMISSION
25

26 Approved as to form and legality:

27
28 
29 _____
30 MARION J. RADSON
31 CITY ATTORNEY

DEC 11 2001

EMPLOYER VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS) PLAN ADOPTION AGREEMENT

Plan Number: 800150

Employer Retirement Health Savings Plan Name: "City of Gainesville Retiree Health Savings Plan" or "Employer Vantagecare Retiree Health Savings Plan" as adopted by the City of Gainesville.

- I. Employer Name: City of Gainesville, Florida
- II. The Employer hereby attests that it is a unit of a state or local government or an agency or instrumentality of one or more units of a state or local government.
- III. The Effective Date of the Plan: January 1, 2002
- IV. The Employer intends to utilize the Trust to fund only welfare benefits pursuant to the following welfare benefit plan(s) established by the Employer:
City of Gainesville Retiree Medical and Dental Expense Reimbursement Plan
- V. Eligible Groups and Participant Eligibility Requirements

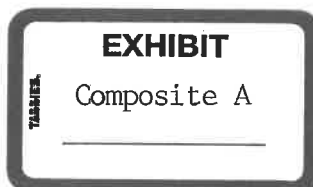
- A. The following group or groups of Employees are eligible to participate in the VantageCare Retirement Health Savings Plan:

- All Employees
- All Full-Time Employees
- Non-Union Employees
- Public Safety Employees -- Police
- Public Safety Employees -- Firefighters
- General Employees
- Collectively-Bargained Employees (Specify unit) Communications Workers of America – Non Supervisory, Communication Worker’s Of America – Supervisory and ATU
- Other (specify below)
Managers, Professionals, Confidential Employees and Charter Officers

The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other material in effect in the state or locality of the Employer.

If the Employer's underlying welfare benefit plan or funding under this VantageCare Retirement Health Savings Plan is in whole or part a non-collectively bargained, self-insured plan, the nondiscrimination requirements of Internal Revenue Code (IRC) Section 105(h) will apply. These rules may impose taxation on the benefits received by highly compensated Employees if the Plan discriminates in favor of highly compensated Employees in terms of eligibility or benefits. The Employer should discuss these rules with appropriate counsel.

- B. Participant Eligibility
 - 1. Minimum period of service required for participation is N/A
 - 2. Minimum age required for eligibility to participate is N/A (write N/A if no minimum age is required).



VI. Contribution Sources and Amounts

A. With the exception of Employee voluntary after-tax contributions as outlined in C. below, there are no limits to VantageCare Retirement Health Savings Plan contributions. Contributions do not count towards IRC Section 415 limits.

B. Employer Contributions

1. The Employer shall contribute on behalf of each Participant 0.0 % of earnings or \$ _____ for the Plan year.

Definition of earnings: Gross Wages

2. The Employer will make mandatory contributions of annual leave as follows:

Accrued Sick Leave* Yes No

Accrued Vacation* Yes No

* Please provide the formula for determining the Accrued Sick Leave and/or Accrued Vacation contribution:

An Employee shall not have the right to discontinue or vary the rate of annual leave contributions.

3. The Employer will make mandatory contributions of Employee compensation as follows:

Reduction in Salary - 0.5 % of earnings (as defined in VI.B.1.) or \$ _____ will be contributed for the plan year.

Decreased Merit or Cost-of-Living Adjustment - All or a portion of the Employees' annual merit or cost-of-living adjustment will be contributed as follows:

An Employee shall not have the right to discontinue or vary the rate of mandatory contributions of Employee compensation.

C. Employee Contributions

Each participant may contribute up to 0.0 % of earnings (as defined in VI.B.1.) or \$ _____ for the Plan Year on a voluntary after-tax basis. In no event may aggregate or individual Employee contributions exceed 15% of total contributions in any plan year.

By adopting this section, the Employer acknowledges that the Internal Revenue Service has declined to rule on Employee contributions in an integral part trust. ICMA-RC has obtained the advice of counsel that such contributions are allowable in an insubstantial amount (i.e. no more than 15% of total contributions in any plan year). The Employer should discuss this issue with appropriate counsel.

VII. Vesting Schedule

- A. The account is 100% vested at all times, unless specified otherwise in B. below.
- B. The following vesting schedule applies to Employer contributions outlined in VI.B.1:

<u>Years of Service Completed</u>	<u>Specified Percent Vesting</u>
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

- C. The account will become 100% vested upon the death, disability, retirement, or attainment of benefit eligibility by a Participant.

Definition of retirement: As Defined in Exhibit 1

- D. Any period of service by a Participant prior to a rehire of the Participant by the Employer shall not count toward the vesting schedule outlined in B. above.

VIII. Forfeiture Provisions

Please complete this Section if a vesting schedule is indicated in Section VII. B.

Upon separation from the service of the Employer, a Participant's non-vested funds shall:

Remain in the Trust to be reallocated among all Plan Participants as Employer Contributions for the next and succeeding contribution cycle(s).

Remain in the Trust to be reallocated pro rata among all Plan Participants.

Remain in the Trust to be reallocated among all Plan Participants based upon Participant account balances.

Revert to the Employer.

IX. Eligibility Requirements to Receive Medical Benefit Payments from the VantageCare Retirement Health Savings Plan

A. A Participant is eligible to receive benefits:

- _____ At retirement only (as defined in Section VII.C.)
- _____ At age _____ only
- _____ At retirement and age _____
- _____ At retirement or age 55

B. A Participant who dies or becomes totally and permanently disabled (as defined by the Social Security Administration) will become immediately eligible to receive medical benefit payments from his/her VantageCare Retirement Health Savings Plan account.

X. Permissible Medical Benefit Payments

Benefits eligible for payment consist of:

A. All Medical Expenses eligible under IRC Section 213*

OR

B. The following Medical Expenses (select only the expenses you wish to cover under the VantageCare Retirement Health Savings Plan):

- _____ Medical Insurance Premiums
- _____ Medical Out-of-Pocket Expenses*
- _____ Medicare Part B Insurance Premiums
- _____ Medicare Supplement Insurance Premiums
- _____ COBRA Premiums
- _____ Dental Insurance Premiums
- _____ Dental Out-of-Pocket Expenses*
- _____ Long Term Care Insurance Premiums
- _____ Long Term Care Benefits*
- _____ Other (Must be eligible under IRC Section 213)

* See Section V.A. for a discussion of nondiscrimination rules which may apply to non-collectively bargained, self-insured Plans.

XI. Death Benefit

A. In the event of a Participant's death, the following shall apply:

Account Transfer: The surviving spouse and/or surviving eligible dependents (as defined in Section XIII.F.) of the deceased Participant are immediately eligible to maintain the account and utilize it to fund eligible medical benefits specified in Section X above.

Upon notification of a Participant's death, the Participant's account balance will be transferred into the Vantagepoint Money Market Fund. The account balance may be reallocated by the surviving spouse or dependents.

In the event of an Account Transfer, if a Participant's account balance has not been fully utilized upon the death of the eligible spouse, the account balance may continue to be utilized to pay benefits of eligible dependents who have not reached the age of 19 (or 24

for full-time students). If no eligible dependents survive the spouse, the remaining account balance will be paid to the eligible spouse's estate as soon as practical. After the death of the spouse, upon the attainment of age 19 (or 24 for full-time students) by all eligible dependents, any remaining account balance will be paid to such dependent(s). Upon the death of all eligible dependents, the balance will be paid to the estate of the last dependent to die as soon as practical. The age limit for eligible dependents may be waived if the individual is incapable of self-sustaining employment by reason of mental or physical handicap and the incapacitation occurred prior to the Participant's death. The account balance may continue to be utilized to pay benefits of the individual if he or she qualified as a dependent of the Participant during the Participant's life, and the Plan has received due proof of incapacity within 31 days of when the individual's coverage under the Plan would otherwise terminate. The individual's coverage may be continued as long as the individual remains incapacitated. The Plan may request proof of the continued existence of such incapacity from time to time.

There will be no elective withholding of federal, state, or local taxes for death benefit lump sum account payments to the Participant's spouse's estate, dependent(s), or dependent's estates.

If there are no living spouse or dependents at the time of death of the Participant, the account will be paid to the designated beneficiary(ies) as an Account Distribution in the year of payout as elected in B. below. If there are no living beneficiary(ies), the account will be paid to the Participant's estate in the year of payout as elected in B. below. There will be no elective withholding of federal, state, or local taxes for death benefit lump sum account payments to beneficiary(ies) or the Participant's estate.

If this box is checked, in lieu of an Account Transfer, the following shall apply in the case of the death of the Participant.

Account Distribution: The Employee's account balance will be paid to the Participant's designated beneficiary(ies).

Upon notification of a Participant's death, the Participant's account balance will be transferred into the Vantagepoint Money Market Fund. The account balance may be reallocated by the designated beneficiary(ies).

If there are no living beneficiary(ies), the account will be paid to the Participant's estate. There will be no elective withholding of federal, state, or local taxes for death benefit lump sum account payments to beneficiary(ies) or the Participant's estate.

- B. In the event of an Account Distribution due to the Participant's death, the death benefits will be paid in the calendar year following the calendar year of the Participant's death.

If this box is checked, in lieu of the above paragraph, death benefits will be paid in the calendar year of the Participant's death. The Employer is responsible for reporting and remitting any applicable taxes, as outlined in the VantageCare Retirement Health Savings Plan Employer Manual.

XII. Severance Benefit

- A. No severance benefit shall be provided under this VantageCare Retirement Health Savings Plan unless otherwise provided in B. below.
- B. If this box is checked, the Employer's VantageCare Retirement Health Savings Plan provides for the payment of the Participant's account balance to the Participant upon termination of employment in advance of retirement (as defined in Section VII.C.) or prior to becoming eligible for medical benefits under the Plan.

The following termination events qualify the Participant for severance benefits:

If the Plan provides severance benefits, the vested value of the Participant's account will be paid as a lump sum to the Participant upon notification from the Employer that the Participant has terminated employment and is eligible to receive a severance benefit.

All severance benefits will be paid as a lump sum. The Employer will be responsible for reporting and remitting any applicable taxes, as outlined in the VantageCare Retirement Health Savings Plan Employer Manual.

XIII. The Plan will operate according to the following provisions:

- A. Employer Responsibilities
1. The Employer will submit all VantageCare Retirement Health Savings Plan contribution data via electronic submission.
 2. Participant status updates and/or changes or personal information updates and/or changes (Participants' termination dates, Participants' benefit eligibility dates, etc.) will be provided via electronic submission.
- B. Participant account administration fees will be paid through the redemption of Participant account shares, unless agreed upon otherwise in the Administrative Services Agreement.
- C. Employer plan fees will be paid by the Employer as outlined in the Administrative Services Agreement.
- D. Assignment of benefits is not permitted.
- E. Payments to an alternate payee (payee other than a Participant) are not permitted with the exception of reimbursement of health insurance premiums to the Employer.
- F. An eligible dependent is the Participant's lawful spouse and any other individual who is a person described in IRC Section 152(a).
- G. Upon termination of employment prior to a Participant becoming eligible for medical benefits from a VantageCare Retirement Health Savings Plan account, Participant accounts that are \$5,000 or less will be considered De Minimis, and will be paid to the Participant.
- H. The Employer will be responsible for reporting and remitting any applicable taxes, as outlined in the VantageCare Retirement Health Savings Plan Employer Manual.

- I. Federal income taxes will be withheld at the rate of 28% on all severance benefit payments and De Minimis account distribution payments. State income taxes will be withheld as required by state law.
- XIV. The Employer hereby acknowledges it understands that failure to properly fill out this Employer VantageCare Retirement Health Savings Plan Adoption Agreement may result in the loss of tax exemption of the Trust and/or loss of tax-deferred status for Employer contributions.

EMPLOYER

By: 

Title: Mayor

Attest: 

Accepted: Vantagepoint Transfer Agents, LLC

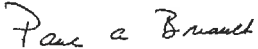

Corporate Treasurer

EXHIBIT 1 TO ADOPTION AGREEMENT

Definition of Retirement:

When an active employee, as defined below, becomes a retired employee, as defined below.

An Active Employee is:

1. An Employee appointed to a position on a regular continuous, full-time basis, in accordance with the normal schedule of the particular department, usually 40 hours per week, and an Employee appointed to a position on a regular continuous, part-time basis, in accordance with the City of Gainesville Charter Officer's determination that the position is continuous but required the Employee to work less than 40 hours per week.

A Retired Employee is:

1. a former Employee, who is a member of the City of Gainesville Employees Pension Plan or a member of the Consolidated Police Officers and Firefighters Retirement Plan and is receiving a monthly annuity pursuant to an approved application for normal, early, or disability retirement, in accordance with the provisions of these pension plans; or
2. a former Employee of the City receiving a monthly benefit pursuant to an approved application for disability retirement under the City of Gainesville Employee Disability Plan; or
3. a former Employee upon whose behalf employer contributions were made to the ICMA deferred compensation program and/or 401(a) plan and who, at the time of their separation from the City, would have met the age and/or service requirements for normal, or early retirement under the City of Gainesville Employee Pension Plan or the Consolidated Police Officers and Firefighters Retirement Plan as applicable to the classification they held at the time of their separation;

and who was covered under the plan immediately prior to termination of employment.

If an Employee is both an active and a retired Employee, he/she shall be considered an active Employee and during such period shall be ineligible to receive medical benefit payments from the City of Gainesville retiree Medical and Dental Expense Reimbursement Plan on the basis of retirement, although said Employee may be eligible to receive benefits based upon reaching age 55.

DECLARATION OF TRUST OF THE

City of Gainesville, Florida INTEGRAL PART TRUST
NAME OF EMPLOYER

DECLARATION OF TRUST OF THE

City of Gainesville, Florida

NAME OF EMPLOYER

INTEGRAL PART TRUST

Declaration of Trust made as of the First day of January, 2002,

by and between the City of Gainesville, Florida

A municipal corporation (hereinafter referred to as the "Employer") and ICMA-Retirement Corporation or its designee (hereinafter referred to as the "Trustee").

RECITALS:

WHEREAS, the Employer is a municipal corporation of the State of
Florida_{State} exempt from federal income tax under the Internal Revenue Code of 1986; and

WHEREAS, the Employer provides for the security and welfare of its eligible employees (hereinafter referred to as "Participants"), their Spouses, Dependents and Beneficiaries by the maintenance of one or more post-retirement welfare benefit plans, programs or arrangements which provide for life, sickness, medical, disability, severance and other similar benefits through insurance and self-funded reimbursement plans (collectively the "Plan"); and

WHEREAS, it is an essential function and integral part of the exempt activities of the Employer to assist Participants, their Spouses, Dependents and Beneficiaries by making contributions to and accumulating assets in the trust, a segregated fund, for post-retirement welfare benefits under the Plan; and

WHEREAS, the authority to conduct the general operation and administration of the Plan is vested in the Employer or its designee, who has the authority and shall be subject to the duties with respect to the trust specified in this Declaration of Trust; and

WHEREAS, the Employer wishes to establish this trust to hold assets and income of the Plan for the exclusive benefit of Plan Participants, their Spouses, Dependents and Beneficiaries; and

NOW, THEREFORE, the parties hereto do hereby establish this trust, to be known as the Declaration of Trust of the ___City of Gainesville___ Integral Part Trust (hereinafter referred to as the "Trust"), and agree that the following constitute the Declaration of Trust (hereinafter referred to as the "Declaration"):

ARTICLE I

DEFINITIONS

1.1 *Definitions.* For the purposes of this Declaration, the following terms shall have the respective meanings set forth below unless otherwise expressly provided.

(a) **"Account"** means the individual recordkeeping account maintained under the Plan to record the interest of a Participant in the Plan in accordance with Section 7.4.

(b) **"Account Transfer"** means a transfer of the Participant's Account upon his or her death to be used for the payment of benefits for the Participant's Spouse and Dependents.

(c) **"Administrator"** means the Employer. The Employer may contract for such administrative services as are necessary to implement the Plan.

(d) **"Beneficiary"** means the person or persons designated by the Participant pursuant to the terms of the Plan, or, if the Plan provides otherwise, the Spouse and Dependents, who will receive any benefits payable hereunder in the event of the Participant's death.

(e) **"Code"** means the Internal Revenue Code of 1986, as amended from time to time.

(f) **"Dependent"** means an individual who is a person described in Code Section 152(a).

(g) **"Investment Fund"** means any separate investment option or vehicle selected by the Employer in which all or a portion of the Trust assets may be separately invested as herein provided. The Trustee shall not be required to select any Investment Fund.

(h) **"Nonforfeitable Interest"** means the interest of the Participant or the Participant's Spouse, Dependent or Beneficiary (whichever is applicable) in the percentage of Participant's Employer's contribution which has vested pursuant to the vesting schedule specified in the Employer's Plan. A Participant shall, at all times, have a one hundred percent (100%) Nonforfeitable Interest in the Participant's own contributions.

(i) **"Spouse"** means the Participant's lawful spouse as determined under the laws of the state in which the Participant has his primary place of residence.

(j) **"Trust"** means the trust established by this Declaration.

(k) **"Trustee"** means the person or persons appointed by the Employer to serve in that capacity.

ARTICLE II

ESTABLISHMENT OF TRUST

2.1 The Trust is hereby established as of the date set forth above for the exclusive benefit of Participants, their Spouses, Dependents and Beneficiaries.

ARTICLE III

CONSTRUCTION

3.1 This Trust and its validity, construction and effect shall be governed by the laws of the State of Florida .
State

3.2 Pronouns and other similar words used herein in the masculine gender shall be read as the feminine gender where appropriate, and the singular form of words shall be read as the plural where appropriate.

3.3 If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions, and such provisions shall be construed to effectuate the purpose of this Trust.

ARTICLE IV

BENEFITS

4.1 *Benefits.* This Trust may provide benefits to the Participant, the Participant's Spouse and Dependents. Death benefits may be provided to a Beneficiary pursuant to the terms of the Plan.

4.2 *Form of Benefits.* This Trust may provide benefits by cash payment. This Trust may reimburse the Participant, his Spouse or Dependents for insurance premiums or other payments expended for permissible benefits described under the Plan. This trust may reimburse the Employer, or the Administrator for insurance premiums.

ARTICLE V

GENERAL DUTIES

5.1 It shall be the duty of the Trustee to hold title to assets held in respect of the Plan in the Trustee's name as directed by the Employer or its designees in writing. The Trustee shall not be under any duty to compute the amount of contributions to be paid by the Employer or to take any steps to collect such amounts as may be due to be held in trust under the Plan. The Trustee shall not be responsible for the custody, investment, safekeeping or disposition of any assets comprising the Trust, to the extent such functions are performed by the Employer or the Administrator, or both.

5.2 It shall be the duty of the Employer, subject to the provisions of the Plan, to pay over to the Administrator or other person designated hereunder from time to time the Employer's contributions and Participants' contributions under the Plan and to inform the Trustee in writing as to the identity and value of the assets titled in the Trustee's name hereunder and to keep accurate books and records with respect to the Participants of the Plan.

ARTICLE VI

INVESTMENTS

6.1 The Employer may appoint one or more investment managers to manage and control all or part of the assets of the Trust and the Employer shall notify the Trustee in writing of any such appointment.

6.2 The Trustee shall not have any discretion or authority with regard to the investment of the Trust and shall act solely as a directed Trustee of the assets of which it holds title. To the extent directed by the Employer (or Participants, their Spouses and Dependents, or Beneficiaries to the extent provided herein) the Trustee is authorized and empowered with the following powers, rights and duties, each of which the Trustee shall exercise in a nondiscretionary manner:

(a) To cause stocks, bonds, securities, or other investments to be registered in its name as Trustee or in the name of a nominee, or to take and keep the same unregistered;

(b) To employ such agents and legal counsel as it deems advisable or proper in connection with its duties and to pay such agents and legal counsel a reasonable fee. The Trustee shall not be liable for the acts of such agents and counsel or for the acts done in good faith and in reliance upon the advice of such agents and legal counsel, provided it has used reasonable care in selecting such agents and legal counsel;

(c) To exercise where applicable and appropriate any rights of ownership in any contracts of insurance in which any part of the Trust may be invested and to pay the premiums thereon; and

(d) At the direction of the Employer (or Participants, their Spouses, their Dependents, their Beneficiaries, or the investment manager, as the case may be) to sell, write options on, convey or transfer, invest and reinvest any part thereof in each and every kind of property, whether real, personal or mixed, tangible or intangible, whether income or non-income producing and wherever situated, including but not limited to, time deposits (including time deposits in the Trustee or its affiliates, or any successor thereto, if the deposits bear a reasonable rate of interest), shares of common and preferred stock, mortgages, bonds, leases, notes, debentures, equipment or collateral trust certificates, rights, warrants, convertible or exchangeable securities and other corporate, individual or government securities or obligations, annuity, retirement or other insurance contracts, mutual funds (including funds for which the Trustee or its affiliates serve as investment advisor, custodian or in a similar or related capacity), or in units of any other common, collective or commingled trust fund.

6.3 Notwithstanding anything to the contrary herein, the assets of the Plan shall be held by the Trustee as title holder only. Persons holding custody or possession of assets titled to the Trust shall include the Employer, the Administrator, the investment manager, and any agents and subagents, but not the Trustee. The Trustee shall not be responsible or liable for any loss or expense which may arise from or result from compliance with any direction from the Employer, the Administrator, the investment manager, or such agents to take title to any assets nor shall the Trustee be responsible or liable for any loss or expense which may result from the Trustee's refusal or failure to comply with any direction to hold title, except if the same shall involve or result from the Trustee's negligence or intentional misconduct. The Trustee may refuse to comply with any direction from the Employer, the Administrator, the investment manager, or such agents in the event that the Trustee, in its sole and absolute discretion, deems such direction illegal.

6.4 The Employer hereby indemnifies and holds the Trustee harmless from any and all actions, claims, demands, liabilities, losses, damages or reasonable expenses of whatsoever kind and nature in connection with or arising out of (i) any action taken or omitted in good faith by the Trustee in accordance with the directions of the Employer or its agents and

subagents hereunder, or (ii) any disbursements of any part of the Trust made by the Trustee in accordance with the directions of the Employer, or (iii) any action taken by or omitted in good faith by the Trustee with respect to an investment managed by an investment manager in accordance with any direction of the investment manager or any inaction with respect to any such investment in the absence of directions from the investment manager. Notwithstanding anything to the contrary herein, the Employer shall have no responsibility to the Trustee under the foregoing indemnification if the Trustee fails negligently, intentionally or recklessly to perform any of the duties undertaken by it under the provisions of this Trust.

6.5 Notwithstanding anything to the contrary herein, the Employer or, if so designated by the Employer, the Administrator and the investment manager or another agent of the Employer, will be responsible for valuing all assets so acquired for all purposes of the Trust and of holding, investing, trading and disposing of the same. The Employer will indemnify and hold the Trustee harmless against any and all claims, actions, demands, liabilities, losses, damages, or expenses of whatsoever kind and nature, which arise from or are related to any use of such valuation by the Trustee or holding, trading, or disposition of such assets.

6.6 The Trustee shall and hereby does indemnify and hold harmless the Employer from any and all actions, claims, demands, liabilities, losses, damages and reasonable expenses of whatsoever kind and nature in connection with or arising out of (a) the Trustee's failure to follow the directions of the Employer, the Administrator, the investment manager, or agents thereof, except as permitted by the last sentence of Section 6.3 above; (b) any disbursements made without the direction of the Employer, the Administrator, the investment manager or agents thereof; and (c) the Trustee's negligence, willful misconduct, or recklessness with respect to the Trustee's duties under this Declaration.

ARTICLE VII

CONTRIBUTIONS

7.1 *Employer Contributions.* The Employer shall contribute to the Trust such amounts as specified in the Plan or by resolution.

7.2 *Participant Contributions.* If specified in the Plan, each Participant may make voluntary after-tax contributions. Under no circumstances shall Participant Contributions exceed an insubstantial amount. These contributions shall be collected by the Employer and remitted to the Trust for deposit at such time or times as required under the terms of the Plan.

7.3 *Accrued Sick Leave and/or Accrued Vacation Leave.* Contributions up to an amount equal to the value of accrued sick leave or vacation leave, or both, are permitted under the Plan. The Employer's Plan must provide a formula for determining the value of the Participant's contribution of accrued sick leave or vacation leave, or both. The Employer's Plan must contain a forfeiture provision that will prevent Participants from receiving the accrued sick leave or vacation leave, or both, in cash in lieu of a contribution to the Trust.

7.4 *Accounts.* Employer contributions, Participant contributions, and contributions of accrued sick leave or vacation leave, or both, all investment income and realized and unrealized gains and losses, and forfeitures allocable thereto will be deposited into an Account in the name of the Participant for the exclusive benefit of the Participant, his Spouse, Dependents and Beneficiaries. The assets in each Participant's Account may be invested in Investment Funds as directed by the Participant from among the Investment Funds selected by the Employer.

7.5 *Receipt of Contributions.* The Employer or, if so designated by the Employer, the Administrator or investment manager or another agent of the Employer, shall receive all contributions paid or delivered to it hereunder and shall hold, invest, reinvest and administer such contributions pursuant to this Declaration, without distinction between principal and income. The Trustee shall not be responsible for the calculation or collection of any contribution under the Plan, but shall hold title to property received in respect of the Plan in the Trustee's name as directed by the Employer or its designee pursuant to this Declaration.

7.6 No amount in any Account maintained under this Trust shall be subject to transfer, assignment, or alienation, whether voluntary or involuntary, in favor of any creditor, transferee, or assignee of the Employer, the Trustee, any Participant, his Spouse, Dependent, or Beneficiaries.

7.7 Upon the satisfaction of all liabilities under the Plan to provide such benefits, any amount of Employer contributions, plus accrued earnings thereon, remaining in such separate Accounts must, under the terms of the Plan, be returned to the Employer.

ARTICLE VIII

OTHER PLANS

8.1 If the Employer hereafter adopts one or more other plans providing life, sickness, accident, medical, disability, severance, or other benefits and designates the Trust hereby created as part of such other plan, the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer shall, subject to the terms of this Declaration, accept and hold hereunder contributions to such other plans. In that event (a) the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer, may commingle for investment purposes the contributions received under such other plan or plans with the contributions previously received by the Trust, but the books and records of the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer, shall at all times show the portion of the Trust Fund allocable to each plan; (b) the term "Plan" as used herein shall be deemed to refer separately to each other plan; and (c) the term "Employer" as used herein shall be deemed to refer to the person or group of persons which have been designated by the terms of such other plans as having the authority to control and manage the operation and administration of such other plan.

ARTICLE IX

DISBURSEMENTS AND EXPENSES

9.1 The Employer or its designee shall make such payments from the Trust at such time to such persons and in such amounts as shall be authorized by the provisions of the

Plan provided, however, that no payment shall be made, either during the existence of or upon the discontinuance of the Plan (subject to Section 7.7), which would cause any part of the Trust to be used for or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries pursuant to the provisions of the Plan.

9.2 All payments of benefits under the Plan shall be made exclusively from the assets of the Accounts of the Participants to whom or to whose Spouse, Dependents, or Beneficiaries such payments are to be made, and no person shall be entitled to look to any other source for such payments.

9.3 The Employer, Trustee and Administrator may be reimbursed for expenses reasonably incurred by them in the administration of the Trust. All such expenses, including, without limitation, reasonable fees of accountants and legal counsel to the extent not otherwise reimbursed, shall constitute a charge against and shall be paid from the Trust upon the direction of the Employer.

ARTICLE X

ACCOUNTING

10.1 The Trustee shall not be required to keep accounts of the investments, receipts, disbursements, and other transactions of the Trust, except as necessary to perform its title-holding function hereunder. All accounts, books, and records relating thereto shall be maintained by the Employer or its designee.

10.2 As promptly as possible following the close of each year, the Trustee shall file with the Employer a written account setting forth assets titled to the Trust as reported to the Trustee by the Employer or its designee.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Neither the Trustee nor any affiliate thereof shall be required to give any bond or to qualify before, be appointed by, or account to any court of law in the exercise of its powers hereunder.

11.2 No person transferring title or receiving a transfer of title from the Trustee shall be obligated to look to the propriety of the acts of the Trustee in connection therewith.

11.3 The Employer may engage the Trustee as its agent in the performance of any duties required of the Employer under the Plan, but such agency shall not be deemed to increase the responsibility or liability of the Trustee under this Declaration.

11.4 The Employer shall have the right at all reasonable times during the term of this Declaration and for three (3) years after the termination of this Declaration to examine, audit, inspect, review, extract information from, and copy all books, records, accounts, and other documents of the Trustee relating to this Declaration and the Trustees' performance hereunder.

ARTICLE XII

AMENDMENT AND TERMINATION

12.1 The Employer reserves the right to alter, amend, or (subject to Section 9.1) terminate this Declaration at any time for any reason without the consent of the Trustee or any other person, provided that no amendment affecting the rights, duties, or responsibilities of the Trustee shall be adopted without the execution of the Trustee to the amendment. Any such amendment shall become effective as of the date provided in the amendment, if requiring the Trustee's execution, or on delivery of the amendment to the Trustee, if the Trustee's execution is not required.

12.2 Upon termination of this Declaration and upon the satisfaction of all liabilities under the Plan to provide such benefits, any amount of Employer contributions, plus accrued earnings thereon, remaining in such separate Accounts must, under the terms of the Plan, be returned to the Employer.

ARTICLE XIII

SUCCESSOR TRUSTEES

13.1 The Employer reserves the right to discharge the Trustee for any or no reason, at any time by giving ninety (90) days' advance written notice.

13.2 The Trustee reserves the right to resign at any time by giving ninety (90) days' advance written notice to the Employer.

13.3 In the event of discharge or resignation of the Trustee, the Employer may appoint a successor Trustee who shall succeed to all rights, duties, and responsibilities of the former Trustee under this Declaration, and the terminated Trustee shall be deemed discharged of all duties under this Declaration and responsibilities for the Trust.

ARTICLE XIV

LIMITED EFFECT OF PLAN AND TRUST

14.1 Neither the establishment of the Plan and the Trust or any modification thereof, the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the Administrator, the Employer or any officer or employee thereof, except as may otherwise be expressly provided in the Plan or in this Declaration.

ARTICLE XV


PROTECTIVE CLAUSE

15.1 Neither the Administrator, the Employer, nor the Trustee shall be responsible for the validity of any contract of insurance or other arrangement maintained in connection with the Plan, or for the failure on the part of the insurer or provider to make payments provided by such contract, or for the action of any person which may delay payment or render a contract void or unenforceable in whole or in part.

IN WITNESS WHEREOF, the Employer and the Trustee have executed this Declaration by their respective duly authorized officers, as of the date first hereinabove mentioned.

EMPLOYER:

TRUSTEES:

By: 
Thomas D. Bussing

By: _____

Title: Mayor

Title: _____

By: 
Kurt M. Lannon

By: _____

Title: Clerk of YK Commission

Title: _____

By: _____

Title: _____

CITY OF GAINESVILLE RETIREE MEDICAL AND DENTAL EXPENSE REIMBURSEMENT PLAN

Article I Preamble

- 1.01 Establishment of Plan
- 1.02 Purpose of Plan

Article II Definitions

- 2.01 "Benefits"
- 2.02 "Code"
- 2.03 "Dependent"
- 2.04 "Eligible Medical or Dental Expenses"
- 2.05 "Employer"
- 2.06 "Entry Date"
- 2.07 "Participant"
- 2.08 "Plan Administrator"
- 2.09 "Plan Year"
- 2.10 "Retiree"
- 2.11 "Spouse"

Article III Eligibility

- 3.01 General Requirements
- 3.02 Termination of Coverage of an Eligible Dependent

Article IV Amount of Benefits

- 4.01 Annual Benefits Provided by the Plan
- 4.02 Cost of Coverage

Article V Payment of Benefits

- 5.01 Eligibility for Benefits
- 5.02 Claims for Benefits

Article VI Plan Administration

- 6.01 Allocation of Authority
- 6.02 Provision for Third-Party Plan Service Providers
- 6.03 Several Fiduciary Liability
- 6.04 Compensation of Plan Administrator
- 6.05 Bonding
- 6.06 Payment of Administrative Expenses
- 6.07 Timeliness of Payments
- 6.08 Annual Statements

Article VII Claims Procedure

- 7.01 Procedure if Benefits are Denied Under the Plan
- 7.02 Requirement for Written Notice of Claim Denial
- 7.03 Right to Request Hearing on Benefit Denial
- 7.04 Disposition of Disputed Claims
- 7.05 Preservation of Other Remedies

Article VIII Amendment or Termination of Plan

- 8.01 Permanency
- 8.02 Employer's Right to Amend
- 8.03 Employer's Right to Terminate

Article IX General Provisions

- 9.01 No Employment Rights Conferred
- 9.02 Payments to Beneficiary
- 9.03 Nonalienation of Benefits
- 9.04 Mental or Physical Incompetency
- 9.05 Inability to Locate Payee
- 9.06 Requirement of Proper Forms
- 9.07 Source of Payments
- 9.08 Tax Effects
- 9.09 Multiple Functions
- 9.10 Gender and Number
- 9.11 Headings
- 9.12 Applicable Laws
- 9.13 Severability

**ARTICLE I
PREAMBLE**

CITY OF GAINESVILLE
CITY COMMISSION

THIS INSTRUMENT made and published by The City of Gainesville, Florida (hereinafter called "Employer") on the First day of January, 2002, creates the City of Gainesville Retiree Medical and Dental Expense Reimbursement Plan, as follows:

1.01 Establishment of Plan

The Employer named above hereby establishes a Retiree Medical and Dental Expense Reimbursement Plan as of the First day of January 2002.

1.02 Purpose of Plan

This Plan has been established to reimburse the eligible Retirees of the Employer for medical and dental expenses incurred by them, their Spouses and Dependents, pursuant to the Employer's VantageCare Retiree Health Savings (RHS) Plan.

**ARTICLE II
DEFINITIONS**

The following words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context:

2.01 "Benefits" means any amounts paid to a Participant in the Plan as reimbursement for Eligible Medical and Dental Expenses incurred by the Participant during a Plan Year by him, his Spouse, or his Dependents.

2.02 "Code" means the Internal Revenue Code of 1986, as amended.

2.03 "Dependent" means any individual who is a dependent of the Participant within the meaning of Code Sec. 152.

2.04 "Eligible Medical or Dental Expenses" means those expenses designated by the Employer as eligible for reimbursement in the VantageCare Retiree Health Savings Plan Adoption Agreement.

2.05 "Employer" means the unit of state or local government creating this Plan, or any affiliate or successor thereof that likewise adopts this Plan.

2.06 "Entry Date" means the first day the Participant meets the eligibility requirements of Article III as of such Date.

2.07 "Participant" means any Retiree who has met the eligibility requirements set forth in Article III.

2.08 "Plan Administrator" means the Employer or other person appointed by the Employer who has the authority and responsibility to manage and direct the operation and administration of the Plan.

2.09 "Plan Year" means the annual accounting period of the Plan, which begins on the First day of January, 20 02, and ends on the 31st day of December, 2002, with respect to the first Plan Year, and thereafter as long as this Plan remains in effect, the period that begins on January 1, and ends on December 31.

2.10 "Retiree" means any individual who, while in the service of the Employer, was considered to be in a legal employer-employee relationship with the Employer for federal withholding tax purposes, and who was part of the classification of employees designated as covered by the Employer's VantageCare Retiree Health Savings Plan.

2.11 "Spouse" means the Participant's lawful spouse as determined under the laws of the state in which the Participant has his primary place of residence.

All other defined terms in this Plan shall have the meanings specified in the various Articles of the Plan in which they appear.

ARTICLE III ELIGIBILITY

3.01 General requirements

Each Retiree who meets the eligibility requirements outlined in the Employer's VantageCare Retiree Health Savings Plan shall be eligible to participate in this Plan.

3.02. Termination of Coverage of an Eligible Dependent.

An Eligible Dependent's coverage shall terminate –

(a) after the death of the Retiree, upon the attainment of age 19 (or 24 for a full time student);

(b) Notwithstanding (a) above, an Eligible Dependent's coverage shall not cease if the individual is incapable of self-sustaining employment by reason of mental or physical handicap and he or she became handicapped while an Eligible Dependent of the Participant. The account balance may continue to be utilized to pay Benefits of the individual if he or she qualified as a Dependent of the Participant during the Participant's life, and the Plan has received due proof of incapacity within 31 days of when the individual's coverage under the Plan would otherwise terminate. The individual's coverage may be continued as long as the individual remains incapacitated. The Plan may request proof of the continued existence of such incapacity from time to time.

ARTICLE IV AMOUNT OF BENEFITS

4.01 Annual Benefits Provided by the Plan

Each Participant shall be entitled to reimbursement for his documented, Eligible Medical or Dental Expenses incurred during the Plan Year in an annual amount not to exceed the account balance of the Participant in the Employer's VantageCare Retiree Health Savings Plan.

4.02 Cost of Coverage

The expense of providing the benefits set out in Section 4.01 shall be contributed as outlined in the Employer's VantageCare Retiree Health Savings Plan.

ARTICLE V PAYMENT OF BENEFITS

5.01 Eligibility for Benefits

- A. Each Participant in the Plan shall be entitled to a benefit hereunder for all Eligible Medical and Dental Expenses incurred by the Participant on or after the Entry Date of his or her participation, (and after the effective date of the Plan) subject to the limitations contained in Article V, below, regardless whether the mental or physical condition for which the Participant makes application for benefits under this Plan was detected, diagnosed, or treated before the Participant became covered by the Plan.
- B. In order to be eligible for benefits, the Participant must meet the benefit eligibility criteria outlined in the Employer's VantageCare Retiree Health Savings Plan Adoption Agreement.
- C. A Participant who dies or becomes totally and permanently disabled (as defined by the Social Security Administration) will become immediately eligible to receive medical benefit payments from the Plan.

5.02 Claims for Benefits

No benefit shall be paid hereunder unless a Participant has first submitted a written claim for benefits to the Plan Administrator on a form specified by the Plan Administrator, and pursuant to the procedures set out in Article VI, below. Upon receipt of a properly documented claim, the Plan Administrator shall pay the Participant the benefits provided under this Plan as soon as is administratively feasible.

ARTICLE VI PLAN ADMINISTRATION

6.01 Allocation of Authority

The Employer shall control and manage the operation and Administration of the Plan. The Employer shall have the exclusive right to interpret the Plan and to decide all matters arising thereunder, including the right to remedy possible ambiguities, inconsistencies, or omissions. All determinations of the Employer with respect to any matter hereunder shall be conclusive and binding on all persons.

Without limiting the generality of the foregoing, the Employer shall have the following powers and duties:

- (a) To decide on questions concerning the Plan and the eligibility of any Employee to participate in the Plan, in accordance with the provisions of the Plan;
- (b) To determine the amount of benefits that shall be payable to any person in accordance with the provisions of the Plan; to inform the Employer, as appropriate, of the amount of such Benefits; and to provide a full and fair review to any Participant whose claim for benefits has been denied in whole or in part; and

- (c) To designate other persons to carry out any duty or power which would otherwise be a fiduciary responsibility of the Plan Administrator, under the terms of the Plan.
- (d) To require any person to furnish such reasonable information as it may request for the purpose of the proper administration of the Plan as a condition to receiving any benefits under the Plan;
- (e) To make and enforce such rules and regulations and prescribe the use of such forms as he shall deem necessary for the efficient administration of the Plan.

6.02 Provision for Third-Party Plan Service Providers

The Plan Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection operation of the Plan. The Plan Administrator, the Employer (and any person to whom it may delegate any duty or power in connection with the administration of the Plan), and all persons connected therewith may rely upon all tables, valuations, certificates, reports and opinions furnished by any duly appointed actuary, accountant, (including Employees who are actuaries or accountants), consultant, third party administration service provider, legal counsel, or other specialist, and they shall be fully protected in respect to any action taken or permitted in good faith in reliance thereon. All actions so taken or permitted shall be conclusive and binding as to all persons.

6.03 Several Fiduciary Liability

To the extent permitted by law, neither the Plan Administrator nor any other person shall incur any liability for any acts or for failure to act except for his own willful misconduct or willful breach of this Plan.

6.04 Compensation of Plan Administrator

Unless otherwise agreed to by the Board, the Plan Administrator shall serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of his duties shall be paid by the Employer.

6.05 Bonding

Unless otherwise determined by the Board, or unless required by any Federal or State law, the Plan Administrator shall not be required to give any bond or other security in any jurisdiction in connection with the administration of this Plan.

6.06 Payment of Administrative Expenses

All reasonable expenses incurred in administering the Plan, including but not limited to administrative fees and expenses owing to any third party administrative service provider, actuary, consultant, accountant, attorney, specialist, or other person or organization that may be employed by the Plan Administrator in connection with the administration thereof, shall be paid by the Employer, provided, however that each Participant shall bear the monthly cost (if any) charged by a third party administrator for maintenance of his Benefit Account unless otherwise paid by the Employer.

6.07 Timeliness of Payments

Payments shall be made as soon as administratively feasible after the required forms and documentation have been received by the Plan Administrator.

6.08 Annual Statements

The Plan Administrator shall furnish each Participant with an annual statement of his medical and dental expense reimbursement account within ninety (90) days after the close of each Plan Year.

ARTICLE VII CLAIMS PROCEDURE

7.01 Procedure if Benefits are Denied Under the Plan

Any Participant, Spouse or Eligible Dependent, or his duly authorized representative may file a claim for a plan benefit to which the claimant believes that he is entitled. Such a claim must be in writing on a form provided by the Plan Administrator and delivered to the Plan Administrator, in person or by mail, postage paid. Within thirty (30) days after receipt of such claim, the Plan Administrator shall send to the claimant, by mail, postage prepaid, notice of the granting or denying, in whole or in part, of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed ninety (90) days from the end of the initial period. If such extension is necessary, the claimant will be given a written notice to this effect prior to the expiration of the initial 30-day period. The Plan Administrator shall have full discretion to deny or grant a claim in whole or in part. If notice of the denial of a claim is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to review pursuant to Sections 7.03 and 7.04.

7.02 Requirement for Written Notice of Claim Denial

The Plan Administrator shall provide, to every claimant who is denied a claim for benefits, written notice setting forth in a manner calculated to be understood by the claimant:

- (a) The specific reason or reasons for the denial;
- (b) Specific reference to pertinent Plan provisions on which the denial is based;
- (c) A description of any additional material of information necessary for the claimant to perfect the claim and an explanation of why such material is necessary, and
- (d) An explanation of the Plan's claim review procedure.

7.03 Right to Request Hearing on Benefit Denial

Within sixty (60) days after the receipt by the claimant of written notification of the denial (in whole or in part) of his claim, the claimant or his duly authorized representative, upon written application to the Plan Administrator, in person or by certified mail, postage prepaid, may request a review of such denial, may review pertinent documents, and may submit issues and comments in writing.

7.04 Disposition of Disputed Claims

Upon its receipt of notice of a request for review, the Plan Administrator shall make a prompt

decision on the review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent plan provisions on which the decision is based. The decision on review shall be made not later than sixty (60) days after the Plan Administrator's receipt of a request for a review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered not later than one hundred-twenty (120) days after receipt of a request for review. If an extension is necessary, the claimant shall be given written notice of the extension prior to the expiration of the initial sixty (60) day period. If notice of the decision on the review is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to legal remedy pursuant to Section 7.05.

7.05 Preservation of Other Remedies

After exhaustion of the claims procedures provided under this Plan, nothing shall prevent any person from pursuing any other legal or equitable remedy otherwise available.

ARTICLE VIII AMENDMENT OR TERMINATION OF PLAN

8.01 Permanency

While the Employer fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the Employer's right to amend or terminate the Plan, as provided in Sections 8.02 and 8.03, below.

8.02 Employer's Right to Amend

The Employer reserves the right to amend the Plan at any time and from time-to-time, and retroactively if deemed necessary or appropriate to meet the requirements of the Code, or any similar provisions of subsequent revenue or other laws, or the rules and regulations in effect under any of such laws or to conform with governmental regulations or other policies, to modify or amend in whole or in part any or all of the provisions of the Plan.

8.03 Employer's Right to Terminate

The Employer reserves the right to discontinue or terminate the Plan at any time without prejudice.

ARTICLE IX GENERAL PROVISIONS

9.01 No Employment Rights Conferred

Neither this Plan nor any action taken with respect to it shall confer upon any person the right to be continued in the employment of the Employer.

9.02 Payments to Beneficiary

Any benefits otherwise payable to a Participant following the date of death of such Participant shall be paid as outlined in the Employer's VantageCare Retiree Health Savings Plan Adoption Agreement.

9.03 Nonalienation of Benefits

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so shall be void. No benefit under the Plan shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person. If any person entitled to benefits under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit under the Plan, or if any attempt is made to subject any such benefit to the debts, contracts, liabilities, engagements or torts of the person entitled to any such benefit, except as specifically provided in the Plan, then such benefit shall cease and terminate in the discretion of the Plan Administrator, and he may hold or apply the same or any part thereof to the benefit of any dependent or beneficiary of such person, in such manner and proportion as he may deem proper.

9.04 Mental or Physical Incompetency

If the Plan Administrator determines that any person entitled to payments under the Plan is incompetent by reason of physical or mental disability, he may cause all payments thereafter becoming due to such person to be made to any other person for his benefit, without responsibility to follow the application of amounts so paid. Payments made pursuant to this Section shall completely discharge the Plan Administrator and the Employer.

9.05 Inability to Locate Payee

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because he cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person (including a notice of the payment so due mailed to the last known address of such Participant or other person as shown on the records of the Employer), such payment and all subsequent payments otherwise due to such Participant or other person shall be escheated under the laws of the State of the last known address of the Participant or other persons eligible for benefits.

9.06 Requirement of Proper Forms

All communications in connection with the Plan made by a Participant shall become effective only when duly executed on forms provided by and filed with the Plan Administrator.

9.07 Source of Payments

The Employer shall be the sole source of benefits under the Plan. No Employee or beneficiary shall have any right to, or interest in, any assets of the Employer upon termination of employment or otherwise, except as provided from time to time under the Plan, and then only to the extent of the benefits payable under the Plan to such Employee or beneficiary.

9.08 Tax Effects

Neither the Employer nor the Plan Administrator makes any warranty or other representation as to whether any payments received by a Participant hereunder will be treated as includible in gross income for federal or state income tax purposes.

9.09 Multiple Functions

Any person or group of persons may serve in more than one fiduciary capacity with respect to the Plan.

9.10 Gender and Number

Masculine pronouns include the feminine as well as the neuter gender, and the singular shall include the plural, unless indicated otherwise by the context.

9.11 Headings

The Article and Section headings contained herein are for convenience of reference only, and shall not be construed as defining or limiting the matter contained thereunder.


9.12 Applicable Laws

The provisions of the Plan shall be construed, administered and enforced according to the laws of the State of **Florida**.


9.13 Severability

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder thereof shall be given effect to the maximum extent possible.

IN WITNESS WHEREOF, we have executed this Plan Agreement the date and year first written above.


(Employer)

By: Wayne Bowers, City Manager

ATTEST 

A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA AUTHORIZING THE MODIFICATION OF ITS HEALTH FACILITIES REVENUE NOTE, SERIES 2000 (SHANDS TEACHING HOSPITAL AND CLINICS, INC.); AUTHORIZING EXECUTION AND DELIVERY OF AN OMNIBUS AGREEMENT THAT AMENDS THE DOCUMENTS PURSUANT TO WHICH SUCH SERIES 2000 NOTE WAS ISSUED; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA, (the "Issuer") as follows:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This resolution, hereinafter called "instrument," is adopted pursuant to the provisions of Chapter 166, Part II, and Chapter 159, Part II, Florida Statutes (the "Act"), and other applicable provisions of law.

SECTION 2. DEFINITIONS. Unless the context otherwise requires, the terms used in this resolution shall have the meanings specified in the Loan Agreement, dated as of December 1, 2000, as amended (the "Loan Agreement") between the Issuer and Shands Teaching Hospital and Clinics, Inc. ("Shands"), the Note Purchase Agreement (the "Note Agreement"), dated as of December 1, 2000, between the Issuer and Compass Bank (the "Bank"), the Fourteenth Supplemental Master Trust Indenture, dated as of December 1, 2000, between Shands and First Union National Bank (the "Master Trustee") ("Supplemental Master Indenture"), the Health Facilities Revenue Note, Series 2000 (Shands Teaching Hospital and Clinics, Inc.) issued by the Issuer to the Bank (the "Series 2000 Note"), and the Shands Obligated Group Note, dated as of December 18, 2000 issued by Shands to the Master Trustee (the "Obligated Group Note"). In addition, the term "Omnibus Agreement" shall mean the Omnibus Agreement dated as of September 1, 2001, to be entered into among the Issuer, the Bank, Shands and the Master Trustee.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared as follows:

A. The City Commission of the Issuer has previously issued the Series 2000 Note due and payable on December 18, 2010, pursuant to Resolution No. 000755, adopted by the Issuer on December 11, 2000. The Series 2000 Note was issued for the purpose of financing the cost of capital improvements and equipment to be located at Shands Hospital at the University of Florida.

B. Shands and the Bank have requested: (i) the Issuer to modify the terms of the Note to modify the stated interest rate due to changes in market conditions from the Three Month LIBOR minus 1.182% to 82% of the Three Month LIBOR; and (ii) that the Issuer cause to be delivered to the Bank, in substitution for the Series 2000 Note, a new note with modified interest rate terms (the "Substitute Series 2000 Note") and in the form attached as Exhibit "A" to the Omnibus Agreement.

SECTION 4. AUTHORIZATION, EXECUTION AND DELIVERY OF THE OMNIBUS AGREEMENT AND THE SUBSTITUTE SERIES 2000 NOTE. The Omnibus Agreement, in substantially the form on file in the office of the Clerk of the Commission as Exhibit "A" hereto and the Substitute Series 2000 Note in substantially the form attached as Exhibit "A" to the Omnibus Agreement, with such changes, alterations and corrections as may be recommended by counsel to the Issuer and as may be approved by the Mayor or Mayor Pro Tempore, such approval to be presumed by his or her execution thereof, are hereby approved by the Issuer, and the

Issuer hereby authorizes and directs said Mayor or Mayor Pro Tempore to execute and the Clerk of the Commission to attest under the seal of the Issuer the Omnibus Agreement and the Substitute Series 2000 Note and to deliver to Shands the Omnibus Agreement and the Substitute Series 2000 Note, all of the provisions of which, when executed and delivered by the Issuer as authorized herein and by the other parties duly authorized, shall be deemed to be a part of this instrument as fully and to the same extent as if incorporated verbatim herein.

SECTION 5. NO PERSONAL LIABILITY. No covenant, stipulation, obligation or agreement herein contained or contained in the Omnibus Agreement or the Substitute Series 2000 Note shall be deemed to be a covenant, stipulation, obligation or agreement of any member, agent, officer or employee of the Issuer or its governing body in his or her individual capacity, and neither the members of the Issuer nor any official executing the Substitute Series 2000 Note shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

SECTION 6. NO THIRD PARTY BENEFICIARIES. Nothing in this instrument, the Omnibus Agreement, or the Substitute Series 2000 Note, expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation other than the Issuer, Shands, the Bank, the Master Trustee and the owner of the Substitute Series 2000 Note any right, remedy or claim, legal or equitable, under and by reason of this instrument, the Omnibus Agreement, or the Substitute Series 2000 Note; this instrument, the Omnibus Agreement and the Substitute Series 2000 Note are intended to be and being for the sole and exclusive benefit of the Issuer, Shands, the Bank, the Master Trustee and the owner from time to time of the Substitute Series 2000 Note.

SECTION 7. PREREQUISITES PERFORMED. All acts, conditions and things relating to the adoption of this instrument, to the issuance of the Substitute Series 2000 Note, and to the execution of the Omnibus Agreement, required by the Constitution or laws of the State of Florida to happen, exist and be performed precedent to the adoption hereof, and precedent to the issuance of the Substitute Series 2000 Note, and to the execution and delivery of the Omnibus Agreement, have happened, exist and have been performed as so required.

SECTION 8. ALL OTHER NECESSARY ACTION. The Mayor, Mayor Pro Tempore, Clerk of the Commission, Counsel to the Issuer, and Smith Hulsey & Busey, bond counsel to the Issuer, are each designated agents of the Issuer in connection with the issuance and delivery of the Substitute Series 2000 Note, and are authorized and empowered, collectively or individually, to take all actions and steps to execute and deliver any and all instruments, documents or contracts on behalf of the Issuer which are necessary or desirable in connection with the execution and delivery of the Substitute Series 2000 Note and which are not inconsistent with the terms and provisions of this resolution and other actions relating to the Substitute Series 2000 Note heretofore taken by the Issuer. The members of the governing body of the Issuer and its officers, attorneys, engineers or other agents or employees are hereby authorized to do all acts and things required of them from time to time by this instrument and the Omnibus Agreement, or desirable or consistent with the requirements hereof or thereof, for the full, punctual and complete performance of all the terms, covenants and agreements contained in the Substitute Series 2000 Note and the Omnibus Agreement.

SECTION 9. THIS INSTRUMENT CONSTITUTES A CONTRACT. The Issuer covenants and agrees that this instrument shall constitute a contract between the Issuer, Shands and the Bank and its successor and assigns that from time to time may hold the Substitute Series 2000 Note.

SECTION 10. ISSUER BOND POLICY COMPLIANCE. Shands is in substantial compliance with the criteria and requirements of the Issuer's Industrial Development Revenue Bond Policy and, consistent with the provisions of the laws of the State of Florida and the Internal Revenue Code relating to the issuance of the Substitute Series 2000 Note, the ratings requirements regarding Shands' obligations and the independent bond trustee requirements are hereby waived.

SECTION 11. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Substitute Series 2000 Note issued hereunder.

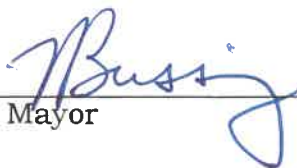
SECTION 12. REPEALING CLAUSE. All resolutions or parts thereof of the Issuer in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 13. EFFECTIVE DATE. This instrument shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Commission of the City of Gainesville, Florida, this 26th day of November, 2001.

CITY OF GAINESVILLE, FLORIDA

(SEAL)

By: 
Mayor

ATTEST:

By: 
Clerk of the Commission

Approved as to form and legality:

By: 
City Attorney

NOV 27 2001

OMNIBUS AGREEMENT

THIS OMNIBUS AGREEMENT, dated as of the first day of September, 2001, by and among the **CITY OF GAINESVILLE, FLORIDA** (hereinafter called the "Issuer"), a municipal corporation organized and existing under the provisions of laws of the State of Florida, **SHANDS TEACHING HOSPITAL AND CLINICS, INC.** (hereinafter called the "Borrower"), a not for profit corporation organized and existing under the laws of the State of Florida, **COMPASS BANK** (the "Bank"), and **FIRST UNION NATIONAL BANK** (the "Master Trustee");

WITNESSETH:

WHEREAS, the City Commission of the Issuer is authorized under Chapter 166, Part II, and Chapter 159, Part II, Florida Statutes (hereinafter called the "Act"), to finance or refinance facilities required or useful for health care purposes, including hospital facilities, equipment, land, rights in land and other appurtenances and facilities related thereto, to the end that the Issuer may be able to promote the improvement of health and living conditions of the people of the City of Gainesville, Florida, Alachua County, and the State of Florida and to provide for such financing or refinancing through the issuance of revenue bonds; and

WHEREAS, the Issuer has issued its Health Facilities Revenue Note, Series 2000 (Shands Teaching Hospital and Clinics, Inc. Project) (the "Series 2000 Note") to the Bank under the Act for the purpose of providing funds which were loaned to Shands to pay the costs of acquisition, construction and equipping of all or a portion of the Project (as hereinafter defined), all as authorized by the Act; and

WHEREAS, Shands and the Bank have requested: (i) the Issuer to modify the terms of the Series 2000 Note to modify the stated interest rate due to changes in market conditions from the Three Month LIBOR (as defined in the Series 2000 Note) minus 1.182% to 82% of the Three Month LIBOR effective September 1, 2001; and (ii) that the Issuer cause to be delivered to the Bank, in substitution for the Series 2000 Note, a new note with modified interest rate terms (the "Substitute Series 2000 Note") and in the form attached as Exhibit "A" to this Omnibus Agreement.

WHEREAS, the Issuer, Shands, the Bank and the Master Trustee have determined to modify the Series 2000 Note and the Note Documents (as hereinafter defined) on such terms as have been provided herein; and

WHEREAS, the Issuer, at a meeting duly convened and held, has authorized the execution and delivery of this Omnibus Agreement;

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided, that in the performance of the agreements of the Issuer herein contained, any obligation it may thereby incur for the payment of money and any obligation or liability it may incur for damages resulting from the breach of any covenant, undertaking, agreement or warranty herein made shall not be a general debt on its part or a mortgage or pledge of its full faith and credit or taxing power or any of its real estate,

property or franchises but shall be payable solely out of the proceeds derived from the Loan Agreement (as hereinafter defined) the Series 2000 Note and the sale of the Series 2000 Note):

ARTICLE I DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise requires, the terms used in this Omnibus Agreement shall have the meanings specified in the Loan Agreement, dated as of December 1, 2000, as amended (the "Loan Agreement"), between the Issuer and Shands Teaching Hospital and Clinics, Inc. ("Shands"), the Note Purchase Agreement (the "Note Agreement"), dated as of December 1, 2000, between the Issuer and the Bank, the Fourteenth Supplemental Master Trust Indenture, dated as of December 1, 2000, between Shands and the Master Trustee (the "Supplemental Master Indenture"), (the Series 2000 Note, and the Shands Obligated Group Note, dated as of December 18, 2000 (the "Obligated Group Note"). In addition, the following terms shall have the following meanings:

"Note Documents" shall mean the Loan Agreement, the Note Agreement, the Supplemental Master Indenture, the Series 2000 Note, and the Obligated Group Note.

"Omnibus Agreement" shall mean this Omnibus Agreement dated as of September 1, 2001, between the Issuer, the Bank, Shands and the Master Trustee.

"Substitute Series 2000 Note" shall mean the substitute Series 2000 Note with modified interest rate terms issued pursuant to this Omnibus Agreement in the form attached as Exhibit "A" hereto.

ARTICLE II
REPRESENTATIONS

Section 2.01. Representations by the Issuer. The Issuer makes the following representations as the basis for the undertakings of the Borrower herein contained:

(a) The Issuer is a duly created and existing municipal corporation under the Act. The Issuer has the power under the Act to enter into the transactions contemplated by this Omnibus Agreement and to carry out its obligations hereunder. The Issuer, pursuant to a resolution of its City Commission duly adopted, has been duly authorized to execute, assign and deliver this Omnibus Agreement, and to execute and deliver the Substitute Series 2000 Note in the form attached as Exhibit "A" hereto.

(b) Neither the execution and delivery of this Omnibus Agreement, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions hereof conflict with or result in a breach of any of the terms, conditions or provisions of any agreement or instrument to which the Issuer is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Issuer under the terms of any instrument or agreement, except as provided in the Note Agreement or in the Loan Agreement.

Section 2.02. Representations by the Borrower. The Borrower makes the following representations as the basis for the undertakings of the Issuer herein contained:

(a) The Borrower is a private, not for profit corporation duly organized, validly existing and in good standing under the laws of the State of Florida, with all requisite power and authority necessary for the making and performing of this Omnibus Agreement, for the carrying on of the business now conducted by it and for the carrying out of the transactions contemplated by this Omnibus Agreement.

(b) All necessary proceedings have been taken by the Borrower to authorize the execution, delivery and performance of this Omnibus Agreement and the Substitute Series 2000 Note and the consummation of the transactions contemplated hereby or thereby. No further action on the part of the Borrower is required in connection with the execution, delivery and performance of this Omnibus Agreement and the Substitute Series 2000 Note or the consummation of the transactions contemplated hereby or thereby.

(c) The Borrower is in compliance with its representations and covenants in the Loan Agreement.

ARTICLE III

AMENDMENT OF THE SERIES 2000 NOTE AND THE NOTE DOCUMENTS

Section 3.01. (a) Amendment of the Series 2000 Note. The Series 2000 Note is hereby modified to change the stated interest rate from the Three Month LIBOR minus 1.182% to 82% of the Three Month LIBOR effective September 1, 2001. The Issuer shall deliver to the Bank, in substitution for the Series 2000 Note, the Substitute Series 2000 Note with modified interest rate terms and in the form attached as Exhibit "A" hereto.

(b) Amendment of the Note Documents. The Note Documents are hereby amended so that references to the Series 2000 Note in the Note Documents shall mean the Series 2000 Note as amended by this Omnibus Agreement and in the form attached as Exhibit "A" hereto.

ARTICLE IV MISCELLANEOUS

Section 4.01. Florida Law Controlling. This Omnibus Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

Section 4.02. Multiple Counterparts. This Omnibus Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original constituting but one and the same instrument.

Section 4.03. Severability. If any one or more of the covenants, agreements or provisions of this Omnibus Agreement shall be determined by a court of competent jurisdiction to be invalid, the invalidity of such covenants, agreements and provisions shall in no way affect the validity or effectiveness of the remainder of this Omnibus Agreement, and this Omnibus Agreement shall continue in force to the fullest extent permitted by law.

Section 4.04. Extent of Covenants. All covenants, stipulations, obligations and agreements of the Issuer and the Borrower contained in this Omnibus Agreement shall be effective to the extent authorized and permitted by applicable law.

IN WITNESS WHEREOF, the City of Gainesville, Florida has caused this Omnibus Agreement to be executed in its name and on its behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk of Commission; Shands Teaching Hospital and Clinics, Inc. has caused this Omnibus Agreement to be executed in its name and on its behalf by its duly authorized officer and attested by its duly authorized officer; Compass Bank has caused this Omnibus Agreement to be executed in its name and on its behalf by its duly authorized officer and attested by its duly authorized officer; and First Union National Bank has caused this Omnibus Agreement to be executed in its name and on its behalf by its duly authorized officer and attested by its duly authorized officer, as of the day and year first above written.

CITY OF GAINESVILLE, FLORIDA

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
Clerk of the Commission

Approved as to form and legality:

By: _____
City Attorney

**SHANDS TEACHING HOSPITAL
AND CLINICS, INC.**

By: _____
Its: Senior Vice President &
Chief Financial Officer/Treasurer

ATTEST:

By: _____
Paul M. Rosenberg
Senior Vice President,
General Counsel/Secretary

COMPASS BANK

By: _____
Its: Vice President

ATTEST:

By: _____
City President

FIRST UNION NATIONAL BANK

By: _____
Its: Trust Officer

ATTEST:

By: _____
Its: _____

**EXHIBIT A
SUBSTITUTE NOTE**

**CITY OF GAINESVILLE, FLORIDA
HEALTH FACILITIES REVENUE NOTE, SERIES 2000
(SHANDS TEACHING HOSPITAL AND CLINICS, INC. PROJECT)**

Date: December 18, 2000

For value received, CITY OF GAINESVILLE, FLORIDA (the "Issuer") promises to pay to the order of COMPASS BANK (together with any future holder or assignee of this Series 2000 Note, called the "Holder"), the sum of Ten Million Dollars (\$10,000,000) together with interest from the date hereof or from the most recent date to which interest has been paid on the principal balance outstanding hereunder from time to time at a per annum rate equal to the **Three Month LIBOR (hereinafter defined) minus 1.182% from the date of issuance of this Series 2000 Note to September 1, 2001 and 82 % of the Three Month LIBOR Rate from September 1, 2001 forward** adjusted quarterly on the eighteenth (18) day of March, June, September and December in each year. This Series 2000 Note shall mature and all unpaid principal and accrued but unpaid interest shall be due and payable without notice on December 18, 2010. Payments of principal and accrued interest shall be made quarterly on the eighteenth day of each March, June, September and December (each a "Payment Date") commencing March 18, 2001. Principal shall be due and payable on each Payment Date in equal installments of \$250,000. As used herein Three Month LIBOR shall mean the London Interbank Offered Rate-Three Month published by the *Wall Street Journal* for each Payment Date and will be set as of the date of this Series 2000 Note and as of each Payment Date (or if not so reported, then as determined by the Holder from another recognized source of interbank quotation). Interest shall be calculated on the basis of a 360-day year for the actual number of days elapsed.

The Issuer may, upon written direction of the Borrower and not less than twenty-four (24) hours written notice directly to the Holder, prepay the principal of this Series 2000 Note in whole or in part, at any time or times, without penalty. Any such prepayments shall be applied in the inverse order of maturity or in such other manner as the Holder shall determine in its sole discretion.

This Series 2000 Note is secured by revenues payable to the Issuer under and by the Loan Agreement between the Issuer and Shands Teaching Hospital and Clinics, Inc. (the "Borrower") dated as of December 1, 2000 (the "Loan Agreement") and is additionally secured by a Note Purchase Agreement between the Issuer and the Bank, dated December 1, 2000, and a Shands Obligated Group Note, Series 2000 Note, dated December 18, 2000 (the "Shands Note") issued pursuant to a Master Trust Indenture between Shands Teaching Hospital and Clinics, Inc. ("Shands") and First Union National Bank (the "Master Trustee"), dated as of March 1, 1996, as amended and supplemented, and particularly as supplemented by a Fourteenth Supplemental Master Trust Indenture, dated as of December 1, 2000. This Series 2000 Note, together with the Note Purchase Agreement and the Loan Agreement, as may be modified, are sometimes referred to hereinafter collectively as the "Note Documents"). **THIS SERIES 2000 NOTE SHALL NOT BE OR CONSTITUTE A GENERAL OBLIGATION OR A PLEDGE OF THE FAITH, CREDIT OR TAXING POWER OF THE ISSUER, ALACHUA COUNTY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF, OR A LIEN UPON ANY PROPERTY OWNED BY OR SITUATED WITHIN THE JURISDICTIONAL TERRITORIAL LIMITS OF THE ISSUER, EXCEPT AS PROVIDED IN THE NOTE DOCUMENTS. THE HOLDER OF THIS SERIES 2000 NOTE SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE ISSUER, ALACHUA COUNTY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF TO (I) LEVY ANY AD VALOREM TAXES ON ANY PROPERTY TO PAY THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS SERIES 2000 NOTE OR TO MAKE ANY OTHER PAYMENTS PROVIDED FOR UNDER THE NOTE DOCUMENTS, (II) PAY THE SAME FROM ANY FUNDS OTHER THAN THOSE DERIVED UNDER THE LOAN AGREEMENT OR THE SHANDS NOTE, IN THE MANNER PROVIDED THEREIN OR (III) REQUIRE OR ENFORCE ANY PAYMENT OR PERFORMANCE BY THE BORROWER AS**

PROVIDED BY THE NOTE DOCUMENTS UNLESS THE ISSUER'S EXPENSES IN RESPECT THEREOF SHALL BE PAID OR ADVANCED TO THE ISSUER, AND THE ISSUER SHALL RECEIVE INDEMNITY TO ITS SATISFACTION. No covenant or agreement contained in this Series 2000 Note or the Loan Agreement shall be deemed to be a covenant or agreement of any member, official, agent, attorney or employee of the Issuer in his individual capacity, and neither the members of the governing body of the Issuer nor any official executing this Series 2000 Note shall be liable personally on this Series 2000 Note or be subject to any personal liability or accountability by reason of the issuance of this Series 2000 Note.

The interest on this Series 2000 Note shall be increased retroactively to the date of any determination as follows: (i) to the **Three Month LIBOR plus 1.30%** in the event that the interest shall be or become includable in the gross income of a holder thereof for federal income tax purposes, or (ii) as necessary to maintain the equivalent After-Tax Yield (as defined below) to the Holder in the event that the Series 2000 Note is determined not to be bank qualified under Section 265(b) of the Internal Revenue Code of 1986 (the "Code"), as amended. Any such determination will be deemed to have occurred upon (a) the receipt by the Holder of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency which holds that any interest payable on this Series 2000 Note is includable in the gross income of the Holder or that the Series 2000 Note is not bank qualified under Section 265(b) of the Code, (b) the issuance of any public or private ruling of the Internal Revenue Service that any interest payable on such Series 2000 Note is includable in the gross income of the Holder or that this Series 2000 Note is not bank qualified under Section 265(b) of the Code; or (c) receipt by the Holder of an opinion of counsel nationally recognized as having expertise in the area of tax-exempt public finance that any interest on this Series 2000 Note has become includable in the gross income of the Holder for federal income tax purposes or that this Series 2000 Note is not bank qualified under Section 265(b) of the Code. In the event of a determination, described in clause (ii) above, the interest rate of this Series 2000 Note shall be adjusted to a rate calculated to provide the Holder with the same After Tax Yield (as defined below) as it would have had absent such determination. The Issuer shall also pay to the Holder any interest on unpaid taxes, penalty or other amounts as a result of such determination together with interest thereon. The provisions of this paragraph shall survive payment in full of this Series 2000 Note. The term "After-Tax Yield" shall mean: (a) the amount received as interest on this Series 2000 Note less (i) any federal income taxes payable on such interest and (ii) any federal income tax liability directly or indirectly imposed on the Holder as the result of its purchase or ownership of or receipt of interest from this Series 2000 Note (including any tax liability resulting from disallowance or limitations on any deductions, credits or other tax benefits), all on an annualized basis divided by (b) the outstanding principal amount of this Series 2000 Note. Unless the Holder shall otherwise determine, the determination of After-Tax Yield shall be based on the assumption that the Holder's taxable income is subject to taxation at the rate applicable to the highest bracket of corporate income. Any taxation change shall not include the effects of the alternative minimum taxes imposed by the Tax Reform Act of 1986, as amended. If the Holder is a member of a consolidated group for federal income tax purposes, the determination of the effect on After-Tax Yield shall be made on a consolidated basis, unless the Holder shall deem a different basis to more accurately reflect the impact of such taxation change. Further, in no event shall interest on this Series 2000 Note be less than 2.15% per annum.

Notwithstanding any provision contained herein to the contrary, in no event shall the interest contracted for, charged or received in connection with any note (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of interest allowed under State law as presently in effect. In the event this Series 2000 Note is prepaid in accordance with the provisions hereof, then such amounts that constitute payments of interest, together with any costs or considerations which constitute interest under the laws of the State of Florida, may never exceed an amount which would result in payment of interest at a rate in excess of the nonusurious interest allowed by the laws of the State of Florida.

It is expressly agreed that all covenants, conditions and agreements contained in the Note Documents are hereby incorporated by reference in this instrument as though fully set forth

herein. In the event of conflict between this Series 2000 Note and the Note Documents, the terms and conditions of the Note Documents shall control. This Series 2000 Note shall be deemed to be in default upon the occurrence of any Event of Default under the terms of the Loan Agreement. Upon the occurrence of such an Event of Default the Holder of this Series 2000 Note may, at its option, declare all unpaid indebtedness evidenced by this Series 2000 Note and any modifications thereof immediately due and payable without notice regardless of the date of maturity and shall have all other rights and remedies as provided in the Note Documents. Failure at any time to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. In the event the Issuer shall fail to make any of the payments required hereunder, the amount so in default shall continue as an obligation of the Issuer until fully paid and until paid shall bear interest at the Default Rate as defined in the Loan Agreement.

This Series 2000 Note shall have all the qualities and incidents of and shall be and is a negotiable instrument under the Uniform Commercial Code-Investment Securities, of the State of Florida.

The Issuer hereby waives presentment, protest and demand, notice of protest, demand and of dishonor and nonpayment of this Series 2000 Note and any other notices which might otherwise be required as a condition to exercise of any rights of the Holder hereof.

THE ISSUER AND, BY ACCEPTANCE OF THIS SERIES 2000 NOTE, THE HOLDER, EACH HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED UPON THIS SERIES 2000 NOTE OR ARISING OUT OF, UNDER OR IN CONJUNCTION WITH THIS SERIES 2000 NOTE OR THE NOTE DOCUMENTS OR ANY COURSE OF CONDUCT, COURSE OF DEALING, ACTS OR OMISSIONS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY.

This Series 2000 Note shall be governed by the laws of the State of Florida, which laws shall be applicable in the interpretation, construction and enforcement hereof.

CITY OF GAINESVILLE, FLORIDA

(SEAL)

By: _____
Mayor

Attest:

By: _____
Clerk of the Commission

Approved as to form and legality:

By: _____
City Attorney