

Legislative #  
150405

**RESOLUTION NO. 150405**

**PASSED – \_\_\_\_\_**

**A Resolution of the City of Gainesville, Florida, approving the final plat of “Fletcher Oaks A Planned Development”, located in the vicinity of NW 31<sup>st</sup> Avenue and NW 26<sup>th</sup> Street and to the south of the 2500 block of NW 39<sup>th</sup> Avenue, as more specifically described in this resolution; accepting the dedication of the public rights-of-way, easements and other dedicated portions as shown on the plat; authorizing the City Manager to execute a Security Agreement to secure the construction of improvements; providing directions to the Clerk of the Commission; and providing an immediate effective date.**

**WHEREAS**, on October 9, 2000, the City Commission adopted Ordinance No. 991267, which rezoned to Planned Development District (PD) a certain area of property known as the “Walnut Creek Planned Development,” a subset of which makes up the property that is the subject of this resolution; and

**WHEREAS**, on March 24, 2003, the City Commission adopted Ordinance No. 020948, which amended the Walnut Creek Planned Development Ordinance No. 991267; and

**WHEREAS**, on April 14, 2008, the City Commission approved the design plat in accordance with Section 30-183 of the Land Development Code for “Walnut Creek Phase II A Planned Development,” which was the former name of the development that is the subject of this resolution and that is now called “Fletcher Oaks A Planned Development”; and

**WHEREAS**, the City Commission adopted Ordinance No. 071066 on March 19, 2009, and Ordinance No. 100762 on April 21, 2011, which each amended the Walnut Creek Planned Development Ordinances and together provided that either a final plat or a conditional final plat for “Walnut Creek Phase II A Planned Development” (now “Fletcher Oaks A Planned Development”) shall be adopted on or before March 19, 2012; and

**Section 1.** The final plat of “Fletcher Oaks A Planned Development” is accepted and approved by the City Commission on the following described property lying in the City of Gainesville, Alachua County, Florida:

See Exhibit “A” attached hereto and made a part hereof as if set forth in full.

**Section 2.** The City Manager is authorized to execute the Security Agreement attached hereto as Exhibit “B” to secure, in accordance with Section 30-186 of the Land Development Code, the construction and completion of the subdivision improvements required under the ordinances of the City of Gainesville.

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

**Section 4.** This resolution shall be effective immediately upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Edward B. Braddy  
Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Kurt Lannon  
Clerk of the Commission

\_\_\_\_\_  
Nicolle M. Shalley  
City Attorney



TEL: (352) 331-1876 132 NW 79th Drive, Gainesville, Florida 32607  
TEL: (352) 414-4821 101 NE 1st Avenue, Ocala, Florida 34710  
WWW.CHW-CORP.COM

Surveying, Mapping & Construction

## LEGAL DESCRIPTION

**DATE:** August 24, 2015  
**PROJECT NO:** 05-0206.01  
**DESCRIPTION FOR:** Fletcher Oaks

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

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE AFOREMENTIONED SECTION 25, TOWNSHIP 9 SOUTH, RANGE 19 EAST FOR THE POINT OF REFERENCE AND RUN S.00°57'04"E., ALONG THE WEST LINE OF SAID NORTHEAST 1/4, A DISTANCE OF 50.15 FEET TO THE SOUTH RIGHT OF WAY LINE OF N.W. 39th AVENUE (100 FOOT RIGHT OF WAY); THENCE RUN N.89°34'14"E., ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 1320.48 FEET TO A CONCRETE MONUMENT (STAMPED PRM LS #3784) AT THE NORTHWEST CORNER OF PALM GROVE SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK "T", PAGE 52 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE RUN S.00°56'22"E., ALONG THE WEST LINE OF SAID PALM GROVE SUBDIVISION, A DISTANCE OF 672.97 FEET TO A CONCRETE MONUMENT (STAMPED PRM LS 3784) AND THE TRUE POINT OF BEGINNING; THENCE CONTINUE S.00°56'22"E., ALONG SAID WEST LINE OF PALM GROVE, A DISTANCE OF 330.34 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #4788) AT THE SOUTHWEST CORNER OF SAID PALM GROVE SUBDIVISION ALSO BEING THE NORTHWEST CORNER OF PALM GROVE PHASE 2 A SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK "U", PAGE 47 OF SAID PUBLIC RECORDS; THENCE RUN S.00°59'33"E., ALONG THE WEST LINE OF SAID PALM GROVE PHASE 2, ALONG A SOUTHERLY PROJECTION THEREOF, A DISTANCE OF 1524.14 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #4788) ON THE NORTH RIGHT OF WAY LINE OF N.W. 31st AVENUE (100 FOOT RIGHT OF WAY); THENCE RUN S.89°35'16"W., ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 150.01 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784); THENCE RUN N.00°59'33"W., A DISTANCE OF 225.01 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784); THENCE RUN S.89°35'16"W., A DISTANCE OF 246.28 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784); THENCE RUN N.01°00'31"W., ALONG THE SOUTHERLY PROJECTION OF THE EAST LINE OF HIDDEN PINES SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK "H", PAGE 63 AND ALONG SAID EAST LINE, A DISTANCE OF 1561.80 FEET TO A CONCRETE MONUMENT (NO IDENTIFICATION) AT THE NORTHEAST CORNER OF LOT 74 OF SAID HIDDEN PINES SUBDIVISION; THENCE RUN S.89°30'39"W., ALONG THE NORTH LINE OF SAID LOT 74 OF HIDDEN PINES SUBDIVISION, A DISTANCE OF 55.54 FEET TO A CONCRETE MONUMENT (STAMPED PRM LS 3784); THENCE RUN N.00°29'21"W., A DISTANCE OF 88.39 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) WHICH MARKS THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, SAID CURVE HAVING A RADIUS OF 100.00 FEET; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 32°57'54", AN ARC DISTANCE OF 57.53 FEET (CHORD BEARING AND DISTANCE BEING S.73°56'49"E., 56.74 FEET RESPECTIVELY) TO A CONCRETE MONUMENT (STAMPED PRM LS 3784); THENCE RUN N.89°34'14"E., A DISTANCE

OF 262.54 FEET TO A CONCRETE MONUMENT (STAMPED PRM LS 3784); THENCE RUN N.00°56'22"W., A DISTANCE OF 14.97 FEET TO A CONCRETE MONUMENT (STAMPED PRM LS 3784); THENCE RUN N.89°34'14"E., A DISTANCE OF 95.19 FEET TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) WHICH MARKS THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, SAID CURVE HAVING A RADIUS OF 20.00 FEET; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°29'24", AN ARC DISTANCE OF 31.24 FEET (CHORD BEARING AND DISTANCE BEING S.45°41'04"E., 28.16 FEET RESPECTIVELY) TO A CONCRETE MONUMENT (STAMPED: PRM LS #3784) WHICH MARKS THE END OF SAID CURVE; THENCE RUN N.89°03'38"E., PERPENDICULAR TO THE AFOREMENTIONED WEST LINE OF PALM GROVE RECORDED IN PLAT BOOK "T", PAGE 52, A DISTANCE OF 20.00 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 15.784 ACRES, MORE OR LESS.

**SECURITY AGREEMENT FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS**

**THIS AGREEMENT** ("Agreement") is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **City of Gainesville, Florida**, a municipal corporation ("City"), R.E. Arnold Construction, Inc., a Florida Company ("Contractor"), Legacy Property Development Inc., a Florida Company ("Developer"), and Campus Credit Union, a Florida \_\_\_\_\_ ("Issuer").

**WITNESSETH**

**WHEREAS**, as the fee simple owner and developer of the subject property located in the City of Gainesville, the Developer has applied to the City for final plat approval of a subdivision named the Fletcher Oaks subdivision ("Subdivision"); and

**WHEREAS**, the City has approved the construction plans and specifications ("Construction Plans") that the Developer submitted pursuant to Section 30-184 of the City of Gainesville Land Development Code for all subdivision public improvements required pursuant to the approved design plat, Sections 30-187 and 30-188 of the Land Development Code, the Public Works Design Manual, and all other applicable local, state and federal regulations ("Required Improvements"); and

**WHEREAS**, pursuant to Section 30-186 of the Land Development Code, no final plat of any subdivision shall be approved by the City unless one of the forms of security allowed for in Section 30-186 ("Security") has been provided to the City, conditioned to secure the construction and completion of the Required Improvements described in the Construction Plans in a satisfactory manner within 12 months from the date of final plat approval; and

**WHEREAS**, the Security provided by the Developer shall be enforceable by and payable to the City in a sum at least equal to 120 percent of the total cost to construct and complete the Required Improvements provided in the Subdivision. The total cost of construction shall be indicated in an executed, itemized contract verified by a private engineer acting for the Developer or in a professional engineer's signed and sealed estimate, and shall be verified and approved by the Public Works Director or designee. Improvements otherwise covered by a separate security agreement between the Developer and the City and those improvements already constructed and approved by the Public Works Director or designee shall not be included when determining the cost of improvements subject to this Agreement; and

**WHEREAS**, the estimated total cost to construct and complete the Required Improvements is \$ 815,753.00. Therefore, the Developer shall provide Security in an amount equal to or greater than 978,903.60; and

**WHEREAS**, this Agreement and the Security provided herein is separate and distinct from the maintenance security that the Developer shall also comply with in accordance with Section 30-186(f) of the Land Development Code.

EXHIBIT "B"

NOW THEREFORE, in consideration of the mutual covenants as set forth below, the parties agree as follows:

1. Effective Date and Term. This Agreement shall become effective on the date the last of the parties executes this Agreement as indicated below and shall remain in effect until:

- a. All Required Improvements are constructed and the City has inspected and approved the Required Improvements as being completed in accordance with the Construction Plans, the Land Development Code and all other applicable local, state and federal regulations, and the Developer has provided maintenance security in accordance with Section 30-186(f) of the Land Development Code, OR
- b. A substitute security agreement is duly executed by all parties in accordance with paragraph 9 below.

2. Form of Security. As Security for the Developer's construction and completion of the Required Improvements, the Developer shall provide in an amount calculated as described above the following: *((Fill in one of the below.))*

**Surety Bond:** On the same date as the effective date of this Agreement, Developer shall cause \_\_\_\_\_ ("Issuer") to issue to the City, as beneficiary, a Surety Bond in the amount of \_\_\_\_\_, lawful money of the United States of America. The Issuer shall be a surety company authorized to do business in the state of Florida with a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc.

**Cash Deposit:** On the same date as the effective date of this Agreement, Developer shall deposit with the City Director of Management and Budget a cash deposit in the amount of \_\_\_\_\_, lawful money of the United States of America.

**Irrevocable and Unconditional Letter of Credit:** On the same date as the effective date of this Agreement, Developer shall cause CAMPUS USA Credit Union ("Issuer") to issue to the City, as beneficiary, an Irrevocable and Unconditional Letter of Credit in the amount of \$978,903.60, lawful money of the United States of America. The Security issued shall, by its terms, be irrevocable, unconditional and provide for drafts to be honored at a banking location within Alachua County, Florida.

**Construction Loan Agreement:** On the same date as the effective date of this Agreement, Developer shall deposit with the City a certified copy of a Construction Loan Agreement between \_\_\_\_\_ ("Issuer") and the Developer in the amount of \_\_\_\_\_, lawful money of the United States of America. The Construction Loan Agreement, by its terms, shall be for the benefit of and satisfactory to the City and shall comply with the requirements contained in Section 30-186(c)(3) of the City's Land Development Code.

3. Developer's Responsibilities. Within 12 months from the date of final plat approval, the Developer shall construct and complete the Required Improvements, as evidenced by the inspection and approval of the City's Public Works Director or designee. Should the Contractor, in acting for the Developer, not construct the Required Improvements as provided for in this Agreement, the Developer agrees to retain another contractor within 30 days of the original Contractor's default for the purpose of constructing the Required Improvements. In the event the Developer has either not retained another contractor within 30 days of the default of the original Contractor or otherwise not completed construction of the Required Improvements and received approval of the City for same within 12 months from the date of final plat approval, the Developer shall be deemed in default and the City shall have the right without prior notice to Developer to draw on the Security in such amount as the City deems necessary to complete construction of that portion of the Required Improvements that have not been completed.

In accordance with Section 30-186(f) of the Land Development Code, the Developer warrants any completed Required Improvements against all defects in materials and construction workmanship and also against design defects, and shall provide maintenance security for same.

4. Contractor's Responsibilities. The Contractor agrees to construct the Required Improvements in a reasonably diligent manner to ensure completion of all Required Improvements within the time specified in paragraph 3.

5. City's Responsibilities. The City agrees to fulfill its responsibilities as required by the provisions of the City's Land Development Code, as may be amended from time to time.

6. Issuer's Responsibilities. The Issuer agrees that the Security described in paragraph 2 shall remain valid for the term of this Agreement and shall be maintained and administered in accordance with this Agreement, and that any disbursement or release of the Security during the term of this Agreement shall not be made without the express approval and certification of the City. In the event the Security can only be issued for a limited term, the Security shall provide for automatic extensions, without requiring written amendment, for successive periods and a combined term that equals or exceeds 12 months. In addition, the Issuer shall provide written notice to the City at least 60 days in advance of any expiration date, in the event the term of the Security will not be extended beyond the then current expiration date.

7. Inspection. During the term of this Agreement, the City may inspect the Subdivision at any time during reasonable business hours to determine if Developer has complied with this Agreement.

8. Release of Security – Cash Deposit. This paragraph is applicable if the Developer provided Security in the form of a cash deposit with the City. Upon the Developer's completion of any portion of the Required Improvements, as evidenced by the inspection and approval of the City's Public Works Director or designee, and the Developer providing the City with the appropriate maintenance security required by Section 30-186(f) of the Land Development Code, the Developer may request and the City shall then release and/or refund to the Developer an amount equal to the City-approved costs of such completed Required Improvements. However, at no time before all Required Improvements have been completed and so certified by the City



shall the balance of the Security be reduced to less than 30 percent of the estimated total cost to construct and complete all Required Improvements as written above.

If the Developer completes the construction of all Required Improvements, with inspection and acceptance by the City, and provides the appropriate maintenance security required by Section 30-186(f) of the Land Development Code, then the City shall release and/or refund to the Developer the remaining balance of the Security.

9. Substitute Security Agreement. This paragraph is applicable if the Developer provided Security in the form of a Surety Bond, Irrevocable and Unconditional Letter of Credit, or Construction Loan Agreement. Upon the Developer's completion of any portion of the Required Improvements, as evidenced by the inspection and approval of the City's Public Works Director or designee, and the Developer providing the City with the appropriate maintenance security required by Section 30-186(f) of the Land Development Code, the Developer may provide substitute security and the parties may execute a substitute security agreement for a sum equal to at least 120 percent of the cost to construct and complete the remaining Required Improvements. However, at no time before all Required Improvements have been completed and so certified by the City shall the balance of the Security provided to the City equal less than 30 percent of the estimated total cost to construct and complete all Required Improvements as written above.

10. Relationship. This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture between the City and the Developer, the Contractor or the Issuer. The Developer cannot create any obligation or responsibility on behalf of the City or bind the City in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Agreement or any responsibility or obligation contemplated herein.

11. Bankruptcy. The filing by the Developer of a petition for relief under federal bankruptcy laws or any other similar law or statute of the United States, or the entry of an order or decree appointing a receiver of the Developer or its assets, shall not affect the Security or the City's rights under this Agreement.

12. Modification and Waiver. This Agreement may only be modified or waived in writing signed by all the parties. No course of dealing shall be deemed a waiver of rights or a modification of this Agreement. The failure of any party to exercise any right in this Agreement shall not be considered a waiver of such right. No waiver of a provision of this Agreement shall apply to any other portion of this Agreement. A waiver on one occasion shall not be deemed to be a waiver on other occasions.

13. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, notwithstanding any Florida conflict of law provision to the contrary. Any legal action, in equity or law, with respect to this Agreement shall be brought and heard in Alachua County, Florida.

14. Severability. Any provision of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder to be invalid, illegal or unenforceable.

15. Captions. The captions and headings of sections or paragraphs used in this Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein.

17. Successors and Assigns. No parties to this Agreement shall assign or transfer any interest in this Agreement without the prior written consent of the other parties. The parties each bind the others and their respective successors and assigns in all respects to all the terms, conditions, covenants, and provisions of this Agreement.

18. Time. Time is of the essence in this Agreement. Whenever a notice or performance is to be done on a Saturday or Sunday or on a legal holiday observed by the City, it shall be postponed to the next business day.

19. Notices. Any notices pursuant to this Agreement shall be effective upon receipt and sent by either certified mail, return receipt requested, overnight courier service or delivered in person to the following addresses:

To the City: City Manager  
City of Gainesville  
P.O. Box 490, Station 6  
Gainesville, Florida 32602-0490

With a copy to: Director of Public Works  
City of Gainesville  
P.O. Box 490, Station 58  
Gainesville, Florida 32602-0490

To the Developer:  
Legacy Property Development  
4510 NW 6<sup>th</sup> Place 3<sup>rd</sup> Floor  
Gainesville, Florida 32607

Telephone: 352-224-6400  
Fax: 352-337-8340  
E-mail: [Blake@BlakeFletcher.com](mailto:Blake@BlakeFletcher.com)

To the Contractor:

**R.E. Arnold Construction, Inc.**  
17210 SW Archer Road  
Archer, FL 32618  
Telephone: 352-495-9494  
Fax: 352-495-9191

To the Issuer: David Barber

Campus Credit Union  
14007 NW 1st Road,  
Jonesville, FL 32669  
Telephone: 352-335-9090 x10126  
Fax: (352) 264-8451

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by duly authorized officials on the dates written below.

WITNESSES:

**CITY OF GAINESVILLE**

Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Russ Blackburn  
City Manager

Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ALACHUA

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by Russ Blackburn, City Manager of the City of Gainesville. He personally appeared before me and is: (check one of the below)

\_\_\_\_\_ personally known to me, or  
\_\_\_\_\_ produced the following type of identification:  
\_\_\_\_\_

Executed and sealed by me on \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission expires: \_\_\_/\_\_\_/\_\_\_

WITNESSES:

Sign: Amy Gnann  
Print Name: Amy Gnann

Sign: Kayla A. Courtney  
Print Name: Kayla Courtney

DEVELOPER

By: \_\_\_\_\_  
Print Name: George E. "Cotton" Fletcher  
Title: President

STATE OF FLORIDA  
COUNTY OF Alachua

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by George E. Fletcher, as President for and on behalf of Legacy Property Development. He/she personally appeared before me and is: (check one of the below)  
 personally known to me, or  
 produced the following type of identification:  
\_\_\_\_\_

Executed and sealed by me on September 24, 2015



AMY GNANN  
MY COMMISSION # FF 227567  
EXPIRES: May 5, 2019  
Bonded Thru Budget Notary Services

Amy Gnann  
Notary Public  
Print Name: Amy Gnann  
My Commission expires: 5/5/19

WITNESSES:

Sign: Gene Arnold  
Print Name: Gene Arnold

Sign: Rachel Roberts  
Print Name: Rachel Roberts

CONTRACTOR

By: Gene Arnold  
Print Name: GENE ARNOUD  
Title: VICE PRESIDENT

STATE OF FLORIDA  
COUNTY OF Alachua

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by Gene Arnold, as vice president for and on behalf of R.E. Arnold Construction, Inc.. He/she personally appeared before me and is: (check one of the below)

personally known to me, or  
 produced the following type of identification:

Executed and sealed by me on Sept. 24, 2015



Rachel Roberts  
Notary Public  
Print Name: Rachel Roberts  
My Commission expires: 4/12/19

WITNESSES:

Sign: Lindsay Rigdon  
Print Name: Lindsay Rigdon

Sign: Ramona Mchance  
Print Name: Ramona m chance

ISSUER

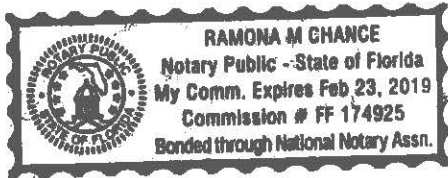
By: David M Barber  
Print Name: DAVID M. BARBER  
Title: BUSINESS LOAN MANAGER

STATE OF FLORIDA  
COUNTY OF ALACHUA

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by DAVID M BARBER, as Business Loan Manager for and on behalf of CAMPUS USA CREDIT UNION. He/she personally appeared before me and is: (check one of the below)

personally known to me, or  
 produced the following type of identification:

Executed and sealed by me on October 2, 2015.



Ramona Mchance  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission expires:  / /