

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between **Beazer East, Inc., a Delaware corporation**, whose business address is c/o Three Rivers Management, Inc., Manor Oak One, Suite 200, 1910 Cochran Road, Pittsburgh, PA 15220 (“Beazer”) and the **City of Gainesville, a municipal corporation, organized and existing under the laws of the State of Florida, acting for itself for and on behalf of all its departments, divisions, directors and officers, including without limitation the Gainesville Regional Utilities**, (collectively referred to herein as the “City”) whose principal place of business is 201 East University Avenue, Gainesville, Florida, 32601. Beazer and the City are collectively referred to herein as the “Parties,” and are each individually referred to herein as a “Party.”

WHEREAS, by written correspondence dated March 4, 2013 to Beazer, the City made a demand against Beazer for cost recovery under Section 107 of CERCLA, 42 U.S.C. § 9607, and also for damages under Section 376.313, Florida Statutes (collectively referred to herein as the “Claim”);

WHEREAS, the City asserted that its Claim arises from approximately \$1.8 million dollars that the City asserts it has expended to ensure that the remedy selected by the United States Environmental Protection Agency (“EPA”) and to be performed by Beazer to address the impacts of former wood treating operations conducted at the Koppers portion (the “Former Koppers Facility”) of the Cabot Carbon/Koppers Superfund Site (the “Superfund Site”) pursuant to a Consent Decree between EPA and Beazer effective July 9, 2013 (the “Consent Decree”) is adequately protective of the City’s primary source of drinking water for the Gainesville community, the Murphree Wellfield operated by the Gainesville Regional Utilities (“GRU”); and

WHEREAS, Beazer has evaluated the City’s Claim and denies liability;

WHEREAS, the Parties wish to avoid the expense, delay and uncertainty of litigation and believe that it is in its best interest of the Parties to settle the City’s Claim; and

WHEREAS, to settle the City’s Claim, Beazer and the City enter into this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein and below, and in mutual consideration of the benefits to accrue to all of the Parties, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Presentation of Agreement to City Commission. As soon as practicable after execution of this Agreement by Beazer, City staff shall present the terms of this Agreement to the City Commission of the City of Gainesville (“Commission”) at a publicly-noticed Commission meeting for the Commission's vote for its approval or rejection of this Agreement. It is understood and agreed that at said Commission meeting, representatives of Beazer and City staff will recommend to the Commission that it vote to approve this Agreement.

2. Commission Vote. If the Commission votes to approve this Agreement within sixty (60) days after presentation pursuant to Paragraph 1 above, with no changes to the terms herein, this Agreement shall be deemed automatically and immediately operative and legally effective as to the Parties as of the date of said vote (“Effective Date”), and the appropriate representatives of the City shall execute this Agreement as soon as practicable thereafter and shall deliver a copy of the fully signed Agreement to Beazer immediately following said execution of the Agreement by City. If the Commission votes not to approve the Agreement, votes to approve this Agreement with changes to the terms set forth herein, or fails to complete a vote on approval or disapproval within sixty (60) days after presentation pursuant to Paragraph 1 above, then this Agreement shall be deemed automatically and immediately null and void, *ab initio*, and neither Party will make any further use of or reference to this Agreement, or the terms hereof, for any purpose, including in any litigation or proceeding between or among the Parties hereto.

3. Settlement Sum. Within thirty (30) days after the Effective Date, Beazer shall pay to City the sum of Six Hundred Seventy-Four Thousand and Five Hundred and No/100 Dollars (\$674,500.00).

4. Public Improvements.

(a) **Work To Be Performed by Beazer.** The public improvements set out in Subparagraph (e) of this Paragraph 4 below (hereafter the “Work”) will be completed by Beazer at its cost and expense. Beazer will select and retain those engineers, consultants, contractors, suppliers and other vendors Beazer determines are necessary to complete, manage and perform the Work. The City shall have no right to disallow, object to or interfere with Beazer’s selection of those engineers, consultants, contractors, suppliers or other vendors retained by Beazer to perform any portion of the Work. The City shall not withhold, disallow, delay or otherwise refuse to issue any permit, approval or permission necessary to complete the Work based on the engineer, consultant, contractor, supplier or other vendor selected by Beazer.

(b) **Criteria for Performance of the Work.** The parties acknowledge that Tetra Tech, and its subconsultants, and other Beazer retained consultants have been preparing detailed plans and specifications for the Work that are consistent with the descriptions of the Work contained in this Agreement. Once completed and approved by Beazer and the City, the final plans and specifications will be incorporated into and made a material part of this Agreement. The Work shall conform to those City standards identified on Exhibits attached hereto, and all other non-City local, state and federal authorities, as applicable. All Exhibits referenced in and attached to this Agreement are incorporated herein and comprise a material part of this Agreement. Beazer will not be assessed any fees by the City or GRU associated in any fashion with the Work. At Beazer’s request, the City shall sign consents or authorizations as are necessary for Beazer to obtain any local, state and/or federal approvals necessary to perform or complete the Work. Beazer shall request and obtain utility locates in accordance with state law. Beazer shall properly manage any soil or groundwater impacted by wood-treating constituents in excess of applicable cleanup standards that may be encountered in connection with the Work in accordance with the Consent Decree and applicable state and federal laws.

Beazer may elect to place or otherwise use any such impacted soil on the Former Koppers Facility in conjunction with Beazer's implementation of the EPA-approved remediation at the Former Koppers Facility. The City agrees to defer to EPA's decision as to the designation of impacted soil required to be managed pursuant to this Subparagraph 3(b).

(c) **Access for the Work.** It is anticipated the Work will occur entirely within the public right-of-way. The City hereby grants to Beazer, as well as to those engineers, consultants, contractors, suppliers or other vendors retained by Beazer to perform any portion of the Work, a temporary, non-exclusive license to access any public right-of-way where the Work will be performed, as described in and subject to the terms and conditions set forth in **Exhibit A**; provided, however, that the City may, in its sole discretion, disallow portions of the Work in certain areas of the public right-of-way. In the event the City disallows use of any public right-of-way where a portion of the Work will be performed or where access is necessary to perform any portion of the Work, then, effective immediately upon such disallowance, Beazer shall be relieved from any further obligation to complete that portion of the Work. In the event it is necessary to enter onto private property to complete any portion of the Work, it shall be Beazer's obligation to make reasonable efforts to obtain lawful access to the private property. If, after reasonable efforts, Beazer is unable to obtain lawful access to the private property, Beazer and the City shall meet and confer to determine whether access through City-owned property or rights-of-way might allow completion of that portion of the Work to be substantially accomplished outside of the private property. If access cannot be obtained through private property or City-owned property or rights of way, then Beazer shall be relieved from any further obligation to complete that portion of the Work.

(d) **Timing, Completion and Conveyance of Improvements.** It is anticipated that, to the extent practicable, the Work will be undertaken in conjunction with the remedial work Beazer will be undertaking in Operable Unit 5 of the Superfund Site pursuant to the Consent Decree and the EPA-approved Remedial Action Work Plan for Operable Unit 5. In the event the EPA disallows any portion of the Work because it conflicts with the EPA-approved remediation of Operable Unit 5 of the Superfund Site, the Parties hereto agree to work with EPA to resolve the conflict, provided, however, that if such a conflict cannot be resolved, the Parties will negotiate in good faith to identify alternate work of equal value that Beazer can complete to make up for that portion of the Work that conflicts with the EPA-approved remediation of Operable Unit 5. Notwithstanding the foregoing, Beazer will use reasonable efforts to complete the Work by the later of one hundred and eighty (180) days from the Effective Date or ninety (90) days after completion of remedial action at Operable Unit 5 of the Superfund Site. Provided the Work conforms to all required City standards identified on the Exhibits attached hereto and the final plans and specifications, Beazer shall provide to the City a Certificate of Completion signed and sealed by the engineer(s) of record, certifying that the Work was completed in accordance with the final plans and specifications, which Certificate shall also identify those portions of the Work that were not completed due to City or private-party disallowance of access pursuant to Subparagraph 3(c) above. Effective upon the City's receipt of the Certificate of Completion, Beazer shall be deemed to have conveyed, assigned, transferred and delivered, forever, to the City, its successors and assigns, all

right, title and interest in and to any improvements, alterations, fixtures, equipment or materials installed in, on or below the public rights-of-way or any City-owned property during completion of the Work. Effective upon the City's receipt of the Certificate of Completion, the City shall be deemed to have accepted ownership of the improvements, alterations, fixtures, equipment or materials installed in, on or below the public rights-of-way or any City-owned property during completion of the Work.

(e) **Stormwater Improvements.** Beazer shall construct certain stormwater improvements within a portion of the Stephen Foster Neighborhood located east of NW 6th Street on NW 28th Avenue within the public right-of-way. The design that shall apply for the stormwater improvements is provided on **Exhibit B** hereto, which has been approved by the City.

5. MSY Soils Removal and Restoration.

(a) **MSY Stockpile Soils; MSY Surface Soils; Access to MSY.**

Beazer hereby agrees that it shall, at its cost and expense, take title to and remove approximately 46,400 cubic yards of material (which may contain soil, construction and demolition debris and similar material) present, as of the Effective Date, on the City's Municipal Storage Yard (the "MSY") located immediately north of the Former Koppers Facility, designated as "Pile 1", "Pile 2" and "Sound Berm" (the "Stockpiles") on **Exhibit C** hereto. Removal of the Stockpiles shall occur in accordance with the schedule approved by EPA for removal of the top one foot (1') of surface soil referenced in the immediately succeeding paragraph. Beazer shall not be required to remove the MSY Stockpile material or the 1 foot of MSY surface soils at any time prior to the scheduled date for removal of the 1 foot of MSY surface soils provided in the remedial action schedule approved by EPA under the Consent Decree.

Beazer hereby agrees that it shall, at its cost and expense, remove the surface soils that comprise the top one foot (1') of surface soil located within the boundary established by the City and Beazer, and approved by the Florida Department of Environmental Protection and EPA, at the MSY, as depicted on **Exhibit C** hereto. Beazer shall not take title to or remove any soils except the Stockpiles and surface soil specifically noted in this Paragraph 5, including, without limitation those soils found in any retention ponds located on the MSY and those soils found at the telecommunications site in the southeast corner of the MSY property. Beazer shall further backfill with clean fill, re-grade and re-seed with suitable grass seed those areas of the MSY property that are disturbed as a result of the removal of material and soil in accordance with this Paragraph 5, and shall do so in accordance with the MSY Work Plan (described in (b) below). Effective upon the date Beazer removes the Stockpiles and surface soils from the MSY property, the City hereby conveys, assigns, transfers and delivers to Beazer all right, title and interest of the City in and to the Stockpiles and surface soils that are described above to be conveyed to Beazer, which Stockpiles and surface soils are hereby conveyed, assigned, transferred and delivered to Beazer, its successors and assigns, forever. Effective upon the date Beazer removes the Stockpiles and surface soils from the MSY property, Beazer

hereby accepts and agrees to take ownership of the Stockpiles and surface soils that are described above to be conveyed to Beazer. The City hereby grants to Beazer, as well as to those engineers, consultants, contractors, suppliers or other vendors retained by Beazer to perform any portion of the MSY Stockpiles and surface soils removal or restoration work described in this Paragraph 5, a temporary, non-exclusive license to access the MSY property to perform such work.

(b) Work Plan for MSY Removal and Restoration. Prior to removal of any Stockpiles and surface soil from the MSY, Beazer shall prepare and submit to the City an MSY Work Plan. The MSY Work Plan shall be submitted to the City for review, and the City shall have thirty (30) days after receipt to provide comments on the Work Plan. Beazer agrees to incorporate those City comments that are consistent with this Agreement. The MSY Work Plan shall: (i) delineate the boundary of the Stockpiles and surface soil removal and restoration required by this Paragraph 5; (ii) describe the removal, fill, grading plan and re-seeding activities to be completed in accordance with this Paragraph 5 ; (iii) provide an approximate commencement and completion date for the removal and restoration activities; and (iii) provide supporting exhibits. It is anticipated that, to the extent practicable, the Stockpiles and surface soil removed from the MSY by Beazer will be placed upon or otherwise used by Beazer at the Former Koppers Facility in conjunction with the remedial work to be performed at the Former Koppers Facility pursuant to the Consent Decree. In the event that all or any portion of the Stockpiles and surface soils removed from the MSY property cannot be placed or used at the Former Koppers Facility, then Beazer agrees to use or dispose of such soil in compliance with all applicable local, state or federal laws. The work to be performed pursuant to the MSY Work Plan shall include supplying adequate clean fill material meeting the State of Florida's residential soil cleanup target levels pursuant to Chapter 62-777, Florida Administrative Code, to a minimum of one foot (1') deep over the areas of the MSY property where surface soils were removed by Beazer, and restoration of the top elevation(s) of the surface of the areas of the MSY property where surface soils were removed to within 0.1 feet (plus or minus) of the elevations existing as of the date Beazer executes this Agreement (exclusive, however, of the three designated stockpiles that currently exist on the MSY property and are identified in Subparagraph 4(a) above), unless overland flow concerns supersede this existing grade criteria. Within the foot prints of the three designated stockpiles identified in Subparagraph 5(a) above, the replacement grades will be uniform from the toe of existing slope on one side of a former stockpile to the toe on the opposite side of the same former stockpile. These surface grading criteria may be altered to direct overland flows to the treatment basins located at the north end of the MSY property.

6. Soil Removal within Public Right-of-Way on 21st Avenue. Whether or not required by EPA under the Consent Decree, Beazer will remediate the soil, in accordance with the procedures established for other residential property remediation under the EPA-approved remediation plan for the Superfund Site, at the seven (7) residential properties located immediately north of NW 21st Avenue between NW 2nd Street and NW 3rd Terrace, excepting any parcels demonstrated to have concentrations of dioxin in soil equal to or less than the

residential cleanup goal specified by the Consent Decree at Table 8 of Appendix A. This work will extend onto and include remediation of the City's public right-of-way adjacent to these residential properties. With respect to the work that will be performed in the City's public right-of-way, the City hereby grants to Beazer, as well as to those engineers, consultants, contractors, suppliers or other vendors retained by Beazer to perform any portion of the Work, a temporary, non-exclusive license to access any public right-of-way where the Work will be performed, as described in and subject to the terms and conditions set forth in **Exhibit A**.

7. **Option to Purchase Land.** Beazer hereby agrees that, within thirty (30) days after the Effective Date, it will convey to the City an Option to Purchase, substantially in the same form as **Exhibit D** hereto, granting the City the right to acquire from Beazer in the future, at a price of zero dollars (\$0), a parcel of land sixteen feet (16') in width along the south, west and north sides of the Former Koppers Facility. If the City exercises said Option to Purchase in the future, then said parcel shall be conveyed, in fee simple, by Beazer to the City, assuming the City can secure the approval of any regulatory agency that may need to approve said conveyance pursuant to remedial obligations imposed under the Consent Decree. Beazer agrees that, when said conveyance occurs, it will not impose any restrictions upon use of said parcel except those that are required by EPA under the Consent Decree. The City agrees that, when said conveyance occurs, the City will take title subject to and will agree to comply with, not violate, and not interfere with those institutional controls, engineering controls and any other remedial measures imposed upon said parcel under the Consent Decree. The Option to Purchase shall not obligate Beazer to convey such parcel of land until all remedial measures required of Beazer under the Consent Decree have been completed for said parcel. The City agrees to give Beazer at least one hundred eighty (180) calendar days advance notice of its intent to exercise said Option to Purchase. The City further agrees that, if Beazer is able, prior to the City's exercise of the Option to Purchase, to secure at no cost (other than the closing costs described below) to the City the conveyance to the City of a sixteen foot (16') wide right of way for use as a bike path along or adjacent to the existing rail corridor located on the east side of the Former Koppers Facility, then the City will release its rights under the Option to Purchase and record an appropriate termination or waiver of said Option to Purchase. In the event Beazer exercises its right to acquire and convey to the City the sixteen foot (16') wide right of way along or adjacent to the existing rail corridor located on the east side of the Former Koppers Facility, as provided above, Beazer shall include in the conveyance to the City a deed for: (i) a sixteen foot (16') parcel of land running along the northeast corner of the Former Koppers Facility from the terminus of the right of way along or adjacent to the existing rail corridor referenced above to the northeast corner of the Former Koppers Facility; and (ii) a sixteen foot (16') parcel of land along the northern boundary of the Former Koppers Facility from the northeast corner of the Former Koppers Facility to a point approximately sixteen feet (16') west of the southwest corner of the cell tower, as depicted in **Exhibit E** attached hereto. Beazer shall be under no obligation to improve, construct improvements, or otherwise prepare for use any parcel conveyed to the City and the City will agree to take title to any such parcel in an "AS IS, WHERE IS" basis. At the time of closing on said conveyance, all costs of closing, including any title search, recording fees, deed preparation fees, transfer taxes or the like shall be borne exclusively by the City.

8. **Release by City.** Upon the Effective Date, the City, which includes GRU and every division, department, bureau, and entity or organization controlled or managed by the City, hereby fully, finally and irrevocably releases, remises, quitclaims, acquits and forever

discharges Beazer, its past, present and future representatives, officers, directors, shareholders, employees, agents, attorneys, successors, affiliates, subsidiaries, parent companies, insurers, assigns, and other agents (all of the foregoing, collectively, the "Beazer Releasees"), of and from any and all disputes, allegations, rights, claims, counterclaims, suits, demands, costs, damages, proceedings and/or causes of action whatsoever, whether known or unknown, and whether legal, equitable, statutory, or otherwise, that the City has, had, or ever may have against the Beazer Releasees as to the Claim or as to, arising from, or related to the recovery, recoupment or contribution towards costs incurred by the City due to or related to the actual or alleged presence of any contamination or pollution at, on or near the Superfund Site.. It is agreed and understood by the Parties hereto that the release provided by this Paragraph 8 does not extend to: (a) claims for breach of the terms of this Agreement; (b) to any claim for injunctive relief compelling the investigation, cleanup or remediation of any contaminants or pollutants at, on or near the Superfund Site; (c) any claim arising from or relating to the Northeast Lagoon, as that term is defined in the Consent Decree and/or used in that certain email from Scott Miller to Richard H. Hutton, John Mousa, Mitch Brouman, and Greg Council, dated September 5, 2013; and (d) any claim arising from or relating to the actual presence of contaminants in the City's Murphree Well Field that are attributable to the Former Koppers Facility.

9. Construction of Agreement. The Parties acknowledge that each has cooperated and assisted in the overall drafting and preparation of this Agreement. Therefore, the parties agree that the rule of *contra proferentem* or interpretation against the party who caused any uncertainty to exist shall not apply to this Agreement.

10. Advice of Counsel. For the purposes of this Agreement, the Parties represent and warrant that they have been represented by counsel and had ample time to consult with their respective counsel concerning the terms of this Agreement and, in fact, did so consult with their counsel.

11. Representation of authority. The Parties represent and warrant to each other that they are authorized to execute this Agreement. The signatory on behalf of Beazer represents and warrants that he/she is authorized, by all necessary corporate action, to bind the corporation to carry out the terms of this Agreement.

12. Litigation Relating To This Agreement. In the event any litigation arises concerning the interpretation or enforcement of this Agreement, venue will be exclusively in the state courts in and for Alachua County, Florida. In connection with any legal proceeding brought to enforce the terms and conditions of this Agreement, each Party shall bear their own costs and expenses, including without limitation, their attorneys' fees.

13. No Admission of Liability or Wrongdoing. By entering into this Agreement, Beazer does not admit to liability with respect to the Claim, and any allegations by the City, whether legal or factual, are specifically denied by Beazer. The Parties acknowledge and agree that this Agreement constitutes a compromise of disputed claims and defenses. It is further understood and agreed that the terms of this Agreement shall likewise not be deemed any admission of liability, or used against either Party, in any respect at any time, except in an action to enforce the terms of this Agreement. This Agreement shall not be offered or received in

evidence for any purpose against the City or Beazer, other than in an action to enforce the terms of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and to be effective as of the date the last party executed same.

ATTEST:

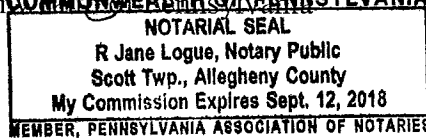
[Signature]
Print Name: Charles E. McChesney II
Vice President & Secretary

[Signature]
Print Name: MARY D. WRIGHT
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY

The foregoing instrument was acknowledged before me this 12 day of November, by Robert S. Markwell, President of Beazer East, Inc., for and on behalf of the corporation, she/he is personally known to me.

[Signature]
Notary Public, Commonwealth of Pennsylvania



Beazer

Beazer East, Inc., a Delaware corporation
By: [Signature]
Name: Robert S. Markwell
Title: President

Date: Nov. 12, 2014

Signed, sealed and delivered
In the presence of the following witnesses:

CITY
CITY OF GAINESVILLE, FLORIDA

Print Name: _____

By: _____

Name: Russ Blackburn

Title: City Manager

Print Name: _____

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, by Russ Blackburn, as the City Manager of the City of Gainesville, Florida, a municipal corporation, and who has acknowledged that he has executed the same for and on behalf of the corporation and that he was authorized to do so. He is personally known to me.

See attached page

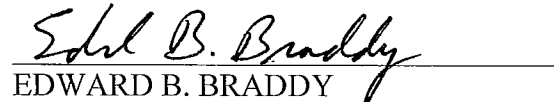
ATTEST:

CITY

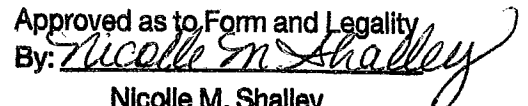
CITY OF GAINESVILLE, FLORIDA



 KURT LANNON,
 CLERK OF THE COMMISSION



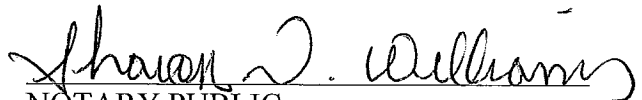
 EDWARD B. BRADDY
 MAYOR

Approved as to Form and Legality
 By: 
 Nicole M. Shalley
 City Attorney

STATE OF FLORIDA:

COUNTY OF ALACHUA:

The foregoing instrument was acknowledged before me this 24 day of November, 2014, by Edward B. Braddy, Mayor of the City of Gainesville, Florida, a municipal corporation, and who has acknowledged that he has executed the same for and on behalf of the corporation and that he was authorized to do so. He is personally known to me.



 NOTARY PUBLIC

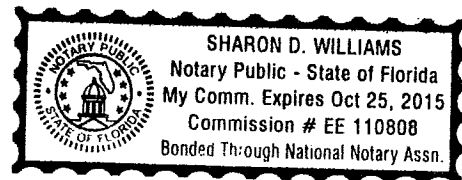


Exhibit A

Terms and Conditions for grant of License in lieu of ROW Use Permit City of Gainesville-Beazer East Inc. Settlement Agreement

The City Of Gainesville provides access to the work site defined by this agreement in lieu of a Right of Way Use Permit. For administrative purposes this authorization is designated Permit No. BEI-01 and becomes conditionally effective on the date that the Agreement is signed by Beazer East, Inc. and shall provide full authorization for the proposed work upon approval by the City of the following submittal requirement:

Three sets of the final plans and all associated submittal materials to be delivered to the City for review. Approval of same is contingent on the submittal meeting the minimum review criteria. The documents for approval shall be delivered to the address below.

Additionally the contractor(s) shall perform all work subject to the following conditions/directives:

- 1. If the protective coating of an electrical line is penetrated or gases or liquids are escaping from a broken line which endangers life, health or property, the excavator must IMMEDIATELY contact local emergency personnel (call 911) to report the damage location.**
2. The construction and maintenance of such utility shall not interfere with the property and rights of a prior occupant.
3. All work area restoration shall be done in accordance with the standards established by the City of Gainesville and under the supervision of the Public Works Director or his designee(s).
4. All materials and equipment shall be subject to inspection and approval by the Public Works Director or his designee(s).
5. During construction, all safety regulations, as defined by the State of Florida Traffic Control and Safe Practices Specifications, shall be observed. All maintenance of traffic shall be in accordance with Florida Department of Transportation standards.
6. All property, both private and public, shall be restored to its original condition, as far as is practical, as determined by the Public Works Director or his designee(s).
7. All overhead installations shall conform to clearance standards of the Florida Department of Transportation, and all underground crossing installations shall be laid at a minimum depth of thirty (30) inches below the pavement and at least twelve (12) inches below ditch grade. Exceptions may be made in special cases in writing by authority from the Public Works Director or his designee(s).
8. An approved engineering plan covering details of this installation shall be made a part of this permit.
9. It is expressly stipulated that this permit is a license for permissive use only and that the placing of facilities upon public property pursuant to this permit shall not operate to create or to vest any property rights in said holder.
10. Whenever necessary for the purpose of construction, repair, improvement, alteration, or relocation of all, or any portion of the City's facilities located on said right-of-way or easement, as determined by

Exhibit A

Terms and Conditions for grant of License in lieu of ROW Use Permit City of Gainesville-Beazer East Inc. Settlement Agreement

the Public Works Director any or all of said poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be immediately removed, reset, or relocated from or on said right-of-way or easement as required by the Public Works Director, and at the expense of the permittee.

11. The permittee shall commence actual construction in good faith within sixty (60) days from date of said permit and shall complete within 180 days. The permittee shall notify the City of Gainesville Public Works Director, Phone 334-5072, a minimum of one working day prior to starting construction. Upon completion of the work, the permittee shall notify Public Works to schedule a final inspection.

12. At a minimum, one-way traffic capability is to be maintained at all times at the work site unless written permission has been granted by the Public Works Director to close the street; in which case, the permit holder is responsible for all traffic control and traffic detour work and expense.

13. Permittee declares that prior to filing this application he has determined the presence of all existing utilities at the permit location, both aerial and underground. Permittee also declares that due notice of work under application was furnished to each utility involved and that copies of letters addressed to said users are attached to and made part of this permit application. Permittee further declares the field utility locations will be made in accordance with FS Chapter 556 prior to any excavation or probing activities. Permittee shall immediately notify emergency services agencies via calling 911 in the event of an incident with buried facilities such as gas pipelines. *Include the following information with the required submittal* "Letters of notification were mailed on _____ to the following utilities:"

14. This permit does not in any way supersede present ordinances adopted by the City of Gainesville.

15. Permittee shall indemnify, defend, save and hold harmless the City, its elected and appointed officials, from all claims, demands, suits, liabilities, damages, losses and expenses, for bodily injury or death to persons or damage to property, including reasonable attorney's fees and costs, resulting from or arising out of the above permitted activity by the Permittee, its contractors, subcontractors, agents, employees or representatives.

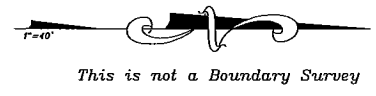
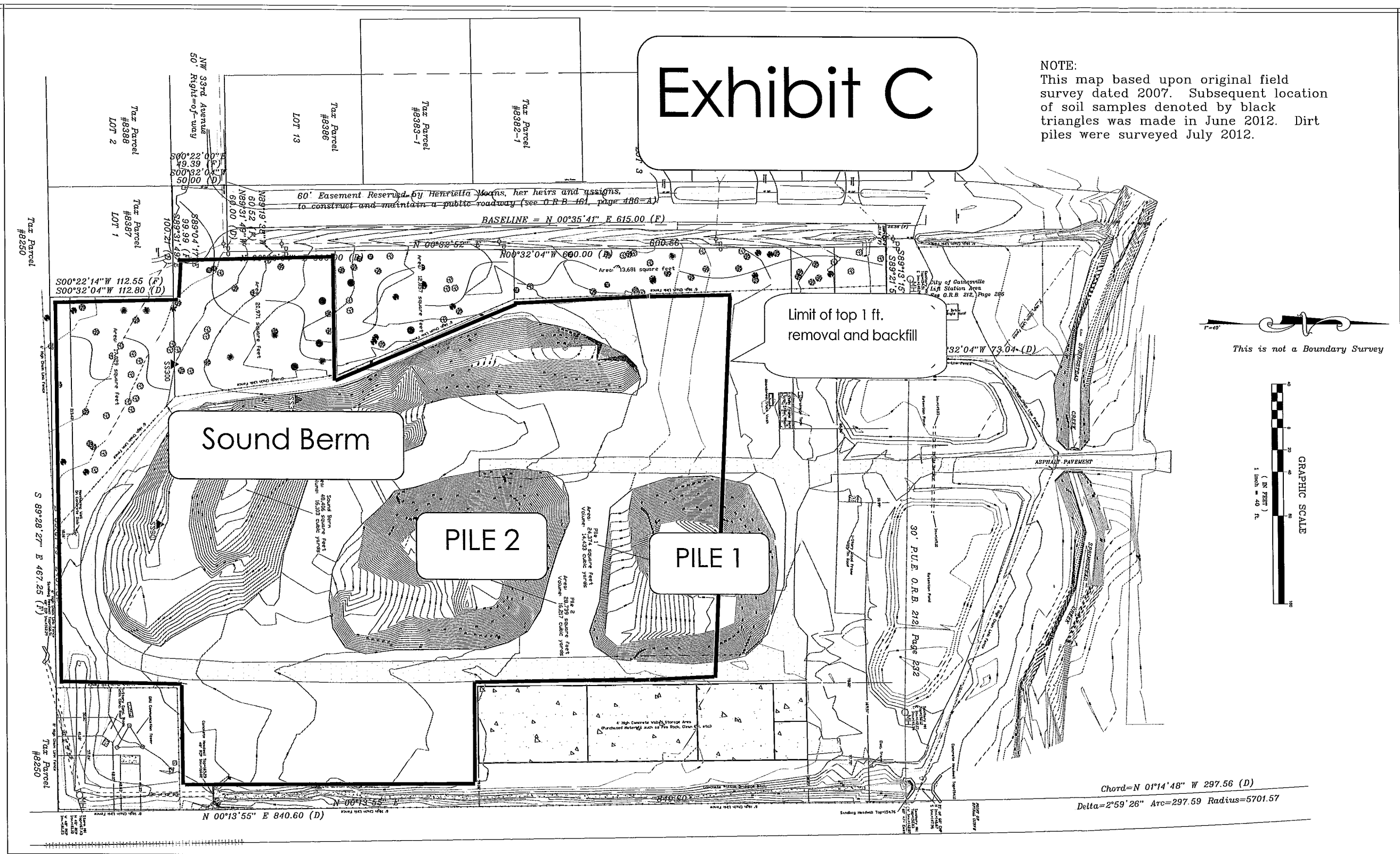
BEAZER EAST INC. UNDERSTANDS AND WILL COMPLY WITH ALL CONDITIONS OF THIS PERMIT. FAILURE TO COMPLY WITH ALL CONDITIONS OF THIS PERMIT WILL RESULT IN A 'NOTICE OF DEFICIENCY' WHICH REQUIRES BEAZER EAST TO CORRECT PRIOR TO THE FINAL INSPECTION AND ACCEPTANCE OF THE WORK BY THE CITY.

Return to:
Public Works Department,
P. O. Box 490, Mail Station 58
306 N.E. 6th Avenue, Thomas Center "B", Room 344
Gainesville, FL 32602
Attn: Right-of-way Use Permit Coordinator
Form Revision August 28, 2008

Upon approval of the submittal by the City a Permit will be issued to Beazer East, Inc.

Exhibit C

NOTE:
This map based upon original field survey dated 2007. Subsequent location of soil samples denoted by black triangles was made in June 2012. Dirt piles were surveyed July 2012.



GRAPHIC SCALE
(IN FEET)
1 inch = 40 ft.

Rev No		Description		Initials		Date		Approved By		NAME		Activity		Initials		Date		CITY OF GAINESVILLE PUBLIC WORKS DEPARTMENT		Hors Scale 40		Project PUBLIC_WORKS_COMPOUND		ACAD File Name: PWC-VOLS	
												Designed By		N/A		N/A		P.O. Box 490, Mail Station 58, Gainesville, Florida 32602-0480 Telephone: (352) 334-5072 FAX: (352) 334-2093		Vert Scale: N/A		Title: TOPO_FOR_MATERIALS_CONTROL		Project No: N/A	
												Drawn By:		TH		7/24/12				Date: 7/24/12				Sheet No: 1	
												Checked By:		TH		7/24/12									

EXHIBIT "D"

**OPTION AGREEMENT
FOR
THE PURCHASE AND SALE OF LAND**

This Option Agreement (the "Agreement") is entered into by and between **Beazer East, Inc., a Delaware corporation**, whose business address is c/o Three Rivers Management, Inc., Manor Oak One, Suite 200, 1910 Cochran Road, Pittsburgh, PA 15220 (the "Seller") and the **City of Gainesville**, a Florida municipal corporation, whose mailing address is Post Office Box 490, Station 6, Gainesville, Florida 32627 (the "Buyer").

The Agreement is given pursuant to, and in consideration of, the Settlement Agreement dated November _____, 2014 between the parties.

1. **Option to Purchase:** The Seller hereby grants to the Buyer an option to purchase certain real property described as follows (the "Property"):

The "Preferred Rail Trail Location" which is a minimum 16 foot wide parcel along the south, west and north sides of the Former Koppers Facility as approximately depicted on Exhibit E to the Settlement Agreement.

2. **Exercise of Option:** At any time during the term of this Agreement, the Buyer may provide Seller with at least one hundred eighty (180) calendar days advance notice of its intent to exercise the option to purchase.

Upon expiration of the one hundred eighty (180) calendar day notice period, the Buyer may exercise the option by executing two originals of a Contract for Sale and Purchase (the "Contract") in the form attached hereto as **Exhibit "A"** and incorporated into this Agreement by reference, and delivering both copies to the Seller. The option shall be effectively exercised upon the Buyer's delivery of the executed Contract. Within fifteen (15) calendar days following Buyer's delivery of same, the Seller shall execute and deliver to the Buyer one of the originals of the Contract. Provided however, the closing and transfer of title shall not occur until all remedial measures required of Beazer under the Consent Decree have been completed for the Property.

As an alternative, the Seller may, prior to the Buyer's delivery of the Contract for the Property, acquire fee simple title to a sixteen foot (16') wide right of way for use as a bike and pedestrian path along or adjacent to the existing rail corridor located on the east side of the Former Koppers Facility and execute and deliver to Buyer two originals of a Contract for Sale and Purchase for the 16' wide right-of-way along with (i) a sixteen foot (16') parcel of land running along the northeast corner of the Former Koppers Facility from the terminus of the right of way along or adjacent to the existing rail corridor referenced above to the northeast corner of the Former Koppers Facility; and (ii) a sixteen foot (16') parcel of land along the northern boundary of the Former Koppers Facility from the northeast corner of the Former Koppers Facility to a point approximately sixteen feet (16') west of the southwest corner of the cell tower, all as approximately depicted in Exhibit E to the Settlement Agreement and referred to herein as the "Alternative Rail Trail Location." The Contract for Sale and Purchase shall be in the form attached hereto as **Exhibit "A"** and incorporated into this Agreement by reference. Within fifteen (15) calendar days following

Seller's delivery of same, the Buyer shall execute and deliver to the Seller one of the originals of the Contract.

Whether the Buyer takes title to the Property or the Alternative Rail Trail Location, Seller shall be under no obligation to improve, construct improvements, or otherwise prepare for use any parcel conveyed to the Buyer and the Buyer will agree to take title to any such parcel in an "AS IS, WHERE IS" basis. Any transfer shall be at no cost to the Buyer, except for all customary buyer closing costs, including any title search, recording fees, deed preparation fees, transfer taxes or the like, which shall be borne exclusively by the Buyer.

3. **Term of the Agreement:** This Agreement shall terminate upon the first to occur of the following:
 - a) at 5 p.m. on November 30, 2034, or b) upon closing and transfer of title to the Buyer of either the Property or the Alternative Rail Trail Location. Time is considered to be of the essence by both parties. This Agreement shall be binding on the heirs, legatees, executors, administrators, personal representatives, successors, and assigns of the Seller.
4. **Assignment of the Agreement:** This Agreement is not assignable by the Buyer.
5. **Authority; Transfer of the Property Subject to the Agreement:** Seller warrants and covenants that Seller has title to the exclusion of all other persons or entities to the fee simple interest in the Property, and as such Seller has full authority to enter into this Agreement without requiring the consent or approval of any other person or entity, except as disclosed herein. During the term of this Agreement, the Property may be sold, mortgaged or otherwise transferred by the Seller. However, any such sale, mortgage or transfer of the Property shall be subject to this Agreement, and shall not defeat the rights of the Buyer as set forth in this Agreement.
6. **Recording:** A memorandum of this Agreement shall be recorded by the Buyer in the Public Records of Alachua County, Florida. **[Attach form of Memorandum.]**
7. **Default:** Failure to perform any responsibility under this Agreement shall place the non-performing party in default. Upon written notice by the non-defaulting party, the party in default shall have ten (10) days to correct the default. If the default is not corrected, this Agreement may be terminated at the option of the non-defaulting party or the non-defaulting party may pursue all remedies available at law or in equity.
8. **Applicable Law and Venue; Attorneys' Fees and Costs:** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any action, in equity or law, with respect to this Agreement must be brought and heard in Alachua County, Florida. In the event of a dispute arising under this Agreement, whether or not a lawsuit or other proceeding is filed, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, including attorneys' fees and costs incurred in litigating entitlement to attorneys' fees and costs, as well as in determining or quantifying the amount of recoverable attorneys' fees and costs. The reasonable costs to which the prevailing party is entitled shall include costs that are taxable under any applicable statute, rule, or guideline, as well as non-taxable costs, including, but not limited to, costs of investigation, copying costs, electronic discovery costs, telephone charges, mailing and delivery charges, information technology support charges, consultant and expert witness fees, travel expenses, court reporter fees, and mediator fees, regardless of whether such costs are otherwise taxable.

9. **Amendment:** This Agreement may not be amended, unless evidenced in a writing executed by all parties.

10. **Notice:** Any and all notice(s) or demand(s) by either party shall be made in writing and served by personal delivery or by US Mail certified return receipt requested. If served by certified mail, service shall be conclusively deemed made forty-eight (48) hours after the deposit thereof in the United States Mail, postage prepaid, addressed to the party to whom such notice or demand is to be given, as hereinafter provided.

Any notice or demand to Buyer may be given at the following address:

AS TO BUYER: Russ Blackburn, Manager
City of Gainesville
P.O. Box 490, MS 6
Gainesville, FL 32627-0490

COPY TO: Attention: City Attorney
City of Gainesville
P.O. Box 1110
Gainesville, FL 32627-1110

Any notice or demand to Seller may be given to the following address:

AS TO SELLER: Robert S. Markwell, President
Beazer East, Inc.
c/o Three Rivers Management, Inc.
Manor Oak One, Suite 200
1910 Cochran Road
Pittsburgh, PA 15220

COPY TO: Charles E. McChesney II, Esquire
Chief Legal Counsel
Beazer East, Inc.
c/o Three Rivers Management, Inc.
Manor Oak One, Suite 200
1910 Cochran Road
Pittsburgh, PA 15220

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and to be made effective as of the date the last party has executed same.

ATTEST:

Print Name: _____

Print Name: _____

Beazer

Beazer East, Inc., a Delaware corporation

By: _____

Name: Robert S. Markwell

Title: President

Date: _____

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF ALLEGHENY) SS:

On this ____ day of _____, 2014, before me, the undersigned Notary Public, personally appeared Robert S. Markwell, who acknowledged himself to be the President of Beazer East, Inc., and that he, as such officer, being authorized to do so, executed the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

Buyer: City of Gainesville

Print Name: _____

Russ Blackburn, Manager

Print Name: _____

STATE OF FLORIDA)
)
COUNTY OF ALACHUA) SS:

The foregoing instrument was acknowledged before me on the ____ day of _____, 2014, by Russ Blackburn, Manager, City of Gainesville, a Florida municipal corporation, who is personally known to me and duly sworn, acknowledged that, as such officer, and pursuant to authority from said Agency, he executed the foregoing instrument for the uses and purposes set forth and contained in this instrument.

Print Name: _____
Notary Public, State of Florida

___ (b) Abstract of title or other evidence of title (see rider for terms), shall be obtained by (CHECK ONLY ONE):

___ (1) Seller, at Seller's expense and delivered to Buyer or Buyer's attorney; or

X (2) Buyer at Buyer's expense.

6. **CLOSING DATE:** This transaction shall be closed and the closing documents delivered on **TBD (but no later than thirty (30) days after the end of the Due Diligence Period)** ("Closing"), unless modified by other provisions of this Contract. Closing shall occur at the offices of the title company or attorney selected by the Buyer.

7. **RESTRICTIONS; EASEMENTS; LIMITATIONS:** Seller shall convey title subject to: comprehensive land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivision; outstanding oil, gas and mineral rights of record; unplatted public utility easements; and all other matters of record.

8. **SURVEY AND DUE DILIGENCE:**

A. **EXISTING DOCUMENTS:** Within fifteen (15) business days after the Effective Date of this Contract, Seller shall provide Buyer with a copy of all surveys, title reports or title insurance policies, environmental and engineering reports and any other reports that pertain to the Property that are in the Seller's possession.

B. **SURVEY:** Prior to Closing, the Buyer shall have the property surveyed at its expense. If the survey shows any encroachments upon or shortages in the land herein described or that the improvements located on the land herein described encroach on the land of others. In the event Buyer determines in its sole discretion that, due to any such encroachment or shortage, the Property is not suitable for a bicycle and pedestrian trail ("Buyer's Intended Use"), Buyer may by written notice provided to Seller on or prior to expiration of the Due Diligence Period, terminate this Contract, upon which except as otherwise provided herein, neither party shall have any further liability or obligation hereunder.

C. **DUE DILIGENCE:**

(1) Commencing on the Effective Date of this Contract, Buyer and its engineers, architects, and other agents shall have a period of **sixty (60) days** (the "Due Diligence Period") within which to undertake such physical inspections and other investigations of, and inquiries concerning, the Property as may be necessary in order for Buyer to evaluate the physical characteristics of the Property, including environmental conditions, as well as such other matters as may be deemed by Buyer to be reasonably necessary to generally evaluate the Property and determine the feasibility and advisability of Buyer's acquisition of the Property for the Buyer's Intended Use. In the event Buyer determines in its sole discretion, that the Property is not suitable for Buyer's Intended Use, Buyer may by written notice provided to Seller on or prior to expiration of the Due Diligence Period, terminate this Contract, repair any damage caused by such inspections and investigations and restore the Property to the same condition as on the date of this Agreement, upon which, except as otherwise provided herein, neither party shall have any further liability or obligation hereunder.

(2) For purposes of undertaking physical inspections and investigations of the Property, including but not limited to the Survey, Appraisal, Environmental Phase I, Environmental Phase II, soil studies, asbestos studies, topographical survey, land use and zoning review, water and sewer availability and capacity, ingress/egress, preliminary planning review, covenants and restrictions, coverage ratio, concurrency compliance, and construction time, Seller hereby grants to Buyer and its agents full right of entry upon the Property and any part thereof during the Due Diligence Period. Buyer, as a condition to its exercise of such right of entry, agrees to indemnify the Seller for claims brought against the Seller to the extent that they are found to result from the negligence of the Buyer, its governing body, or its employees. This indemnification shall not be construed to be an indemnification for the acts, or omissions of third parties, independent contractors or third party agents of the Buyer, so long as Buyer shall have provided Seller with an indemnity from such third parties. This indemnification shall not be construed as a waiver of the Buyer's sovereign immunity, and shall be interpreted as limited to only such traditional liabilities for which the Buyer could be liable under the common law interpreting the limited waiver of sovereign immunity. An action may not be instituted on a claim against the Buyer unless the claimant presents the claim in writing to the Risk Manager within three years after such claim accrues or the Risk Manager denies the claim in writing. For purposes of this paragraph, the requirements of notice to the Risk Manager and denial of the claim are conditions precedent to maintaining an action but shall not be deemed to be elements of the cause of action and shall not affect the date on which the cause of action accrues. Notwithstanding any other provisions of this paragraph, the value of this indemnification is limited to the maximum sum of \$300,000 as the result of all claims and judgments arising out of the same incident or occurrence, not to exceed the sum of \$200,000 for any claim or judgment or portions thereof. **[Are these statutory limitations?]** In addition, this indemnification shall be construed to limit recovery by the indemnified party against the Buyer to only those damages to the extent caused by the Buyer's negligence.

(3) Buyer shall utilize its own consultants, engineers and all other related professionals to make its own investigation and determination as to the accuracy or acceptability of any and all matters regarding the Property and the documents.

9. SPECIAL CONDITIONS/CONTINGENCIES:

The closing and transfer of title shall not occur until all remedial measures required of Seller under the Consent Decree have been completed for the Property. The Property shall be conveyed, in fee simple, by Seller to the Buyer, contingent upon Buyer securing the approval of any regulatory agency that may need to approve said conveyance pursuant to remedial obligations imposed under the Consent Decree. Seller agrees that, when said conveyance occurs, it will not impose any restrictions upon use of the Property except those that are required by EPA under the Consent Decree. The Buyer agrees that, when said conveyance occurs, the Buyer will take title subject to and will agree to comply with, not violate, and not interfere with those institutional controls, engineering controls and any other remedial measures imposed upon said parcel under the Consent Decree.

10. WARRANTIES & COVENANTS OF SELLER:

A. **LITIGATION:** Seller covenants and warrants that, to the best of its knowledge, there are no suits, actions, or proceedings pending, whether involving governmental authority or private party, to which Seller is a party and relating to the ownership or operation of the Property, nor has Seller any

knowledge of any contemplated actions; and Seller agrees to give Buyer prompt notice of any suits instituted between the date hereof and the closing date.

B. SELLER'S OWNERSHIP: Seller warrants and covenants that Seller has title to the exclusion of all other persons or entities to the fee simple interest in the Property, and the same shall be conveyed by Seller to Buyer at the closing; that Seller has an unrestricted right to so transfer, that there are no Contracts, leases or understandings affecting the Property or improvements thereon other than those that have been or will be disclosed by provisions of this Contract.

C. COMPLIANCE WITH LAW: Seller warrants and covenants that, to the best of its knowledge, there are no violations of federal, state, or local law, regulations or ordinances affecting the Property and Seller covenants to cure any and all such violations, if such are found to exist, prior to closing.

D. ZONING: Seller warrants and covenants that the Property is presently zoned _____. Seller further warrants and covenants that it has no knowledge or information of any existing or anticipated federal, state, county, municipal or other orders or actions which might adversely affect Buyer's intended use, as applicable.

E. CONDEMNATION: Seller warrants and covenants that it has not received any written or official notice or otherwise been notified or have any knowledge of any condemnation proceedings against the whole or any part of the Property, by any other government entity.

11. OCCUPANCY: Seller shall deliver occupancy of Property to Buyer at time of Closing.

12. TYPEWRITTEN OR HANDWRITTEN PROVISIONS: Typewritten or handwritten provisions, riders and addenda shall control all printed provisions of this Contract in conflict with them.

13. ASSIGNABILITY: Buyer may not assign this Contract.

14. DISCLOSURES:

A. ____ CHECK HERE if the property is subject to a special assessment lien imposed by a public body payable in installments which continue beyond Closing and, if so, specify who shall pay amounts due after Closing: ____ Seller ____ Buyer ____ Other (see addendum).

B. Radon is a naturally occurring radioactive gas that when accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your County Public Health unit.

C. If Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act, the parties shall comply with that Act.

15. MAXIMUM REPAIR COSTS: NONE

16. RIDERS; ADDENDA; SPECIAL CLAUSES: NONE

COPY TO:

Charles E. McChesney II, Esquire
Chief Legal Counsel
Beazer East, Inc.
c/o Three Rivers Management, Inc.
Manor Oak One, Suite 200
1910 Cochran Road
Pittsburgh, PA 15220

- 21. **ENTIRE CONTRACT:** The Settlement Agreement, Option Agreement, this Contract and Exhibits thereto, constitute the entire understanding between the parties hereto with respect to the subject matter hereof and cannot be changed, modified, amended, terminated or any provision hereof waived except by an instrument in writing signed by the parties hereto.
- 22. **CAPTIONS:** The parties mutually agree that the headings and captions contained in this Contract are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Contract.
- 23. **COUNTERPARTS:** This Contract may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 24. **GOVERNING LAW:** The Laws of the State of Florida shall govern this Contract, venue in Alachua County, Florida.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

SELLER(S):

Beazer East, Inc.

Robert S. Markwell, President

Date: _____

WITNESSES:

Name

Print Name

Name

Print Name

BUYER:

City of Gainesville, Florida, a municipal corporation

Russ Blackburn, City Manager

Date: _____

WITNESSES:

Name

Print Name

Name

Print Name

STANDARDS FOR REAL ESTATE TRANSACTIONS

- A. TITLE INSURANCE:** The Title Commitment shall be issued by a Florida licensed title insurer agreeing to issue Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price, insuring Buyer's marketable title to the Real Property, subject only to matters contained in Paragraph 7. and those to be discharged by Seller at or before Closing. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have five (5) days from date of receiving the Title Commitment to examine it. In the event Buyer determines in its sole discretion, that, due to any matter shown on the Title Commitment, the Property is not suitable for Buyer's Intended Use, Buyer may by written notice provided to Seller on or prior to expiration of the Due Diligence Period, terminate this Contract, upon which except as otherwise provided herein, neither party shall have any further liability or obligation hereunder.
- B. SURVEY:** Prior to Closing, the Buyer shall have the property surveyed at its expense. If the survey shows any encroachments upon or shortages in the land herein described or that the improvements located on the land herein described encroach on the land of others, and Buyer determines in its sole discretion that, due to any such encroachment or shortage, the Property is not suitable for Buyer's Intended Use, Buyer may by written notice provided to Seller on or prior to expiration of the Due Diligence Period, terminate this Contract, upon which except as otherwise provided herein, neither party shall have any further liability or obligation hereunder.
- C. WOOD DESTROYING ORGANISMS:** Not applicable, vacant property
- D. INGRESS AND EGRESS:** N/A
- E. LEASES:** N/A
- F. LIENS:** Seller shall furnish to Buyer at time of Closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Real Property for ninety (90) days immediately preceding date of Closing. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at Closing of this Contract.
- G. PLACE OF CLOSING:** Closing shall be held in the county wherein the Real Property is located at the office of the attorney or other closing agent ("Closing Agent") designated by the party paying for the title insurance.
- H. TIME:** In computing time periods of less than six (6) days, Fridays, Saturdays, Sundays and state or national legal holidays shall be excluded. Any time periods provided herein which shall end on a Friday, Saturday, Sunday or a legal holiday shall extend to 5:00 p.m. of the next City business day. **Time is of the essence in this Contract.**
- I. CLOSING DOCUMENTS:** Seller shall execute the deed, bill of sale, certificate of title, construction lien affidavit and owner's possession affidavit.

J. EXPENSES: Buyer will pay all Closing costs.

K. PRORATIONS; CREDITS: Taxes, assessments and other expenses of the Property shall be prorated through the day before Closing. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If Closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. A tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of tax bill on condition that a statement to that effect is signed at Closing.

L. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified special assessment liens imposed by public bodies as of Closing are to be paid by Seller. Pending liens as of Closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at Closing, be charged an amount equal to the last estimate or assessment for the improvement by the public body.

M. INSPECTION, REPAIR AND MAINTENANCE: Not applicable, vacant property

N. RISK OF LOSS: Not applicable, vacant property

O. CLOSING PROCEDURE: The deed shall be recorded at Closing.

P. ESCROW: Any Closing Agent or escrow agent ("Agent") receiving funds or equivalent is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with terms and conditions of this Contract. Failure of funds to clear shall not excuse Buyer's performance. If in doubt as to Agent's duties or liabilities under the provisions of this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties hereto agree to its disbursement or until a judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended. Any suit between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any suit wherein Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred with these amounts to be paid from and out of the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party. The Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of items subject to the escrow, unless such misdelivery is due to willful breach of the provisions of this Contract or gross negligence of Agent.

Q. ATTORNEY'S FEES; COSTS: In any litigation, including breach, enforcement or interpretation, arising out of this Contract, the prevailing party in such litigation, which, for purposes of this Standard, shall include Seller, Buyer, and any brokers acting in agency or nonagency relationships authorized by Chapter 475, F.S., as amended, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses.

R. DEFAULT: Failure to perform any responsibility under this Contract shall place the non-performing party in default. Upon written notice by the non-defaulting party, the party in default shall have ten (10) days to correct the default. If the default is not corrected, this Contract may be terminated at the option of the non-defaulting party or the non-defaulting party may pursue all remedies available at law or in equity.

S. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; FACSIMILE: Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney representing any party shall be as effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic media. A legible facsimile copy of this Contract and any signatures hereon shall be considered for all purposes as an original.

T. CONVEYANCE: Seller shall convey title to the Real Property by special warranty.

U. OTHER CONTRACTS: No prior or present contracts or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the parties intended to be bound by it.

V. WARRANTY: Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer.

Buyers Initials: _____

Sellers Initials: _____

Memorandum of Option Agreement

THIS MEMORANDUM OF OPTION AGREEMENT (“Memorandum”) is entered into by and between the **City of Gainesville, Florida, a municipal corporation under the laws of the State of Florida**, whose address is P.O. Box 490, Station 6, Gainesville, Florida 32601 (“Buyer”) and **Beazer East, Inc., a Delaware corporation** whose address is: c/o Three Rivers Management, Inc., Manor Oak One, Suite 200, 1910 Cochran Road, Pittsburgh, PA 15220 (“Seller”) (collectively the “Parties”).

The Parties have executed a certain Option Agreement for the Purchase and Sale of Property dated November ____, 2014, (the “Agreement”), wherein the Seller has granted the Buyer an option to purchase a portion of that certain property located at 200 NW 23rd Avenue, Gainesville, Florida and identified in the Alachua County Property Appraiser Records as Parcel Number 08250-000-000 (the “Property”). By its terms, the Agreement expires at 5pm on November 30, 2034, unless earlier terminated or extended by agreement of the parties.

IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed and recorded to put the public on notice of the rights and obligations contained in the Agreement.

Signed, sealed and delivered
In the presence of the following witnesses:

Seller

Beazer East, Inc., a Delaware corporation

By: _____

Print Name: _____

Name: Robert S. Markwell
Title: President

Print Name: _____

Date: _____

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY

The foregoing instrument was acknowledged before me on this _____ day of _____, 2014, before me, the undersigned Notary Public, personally appeared Robert S. Markwell, who acknowledged himself to be the President of Beazer East, Inc., and that he, as such officer, being authorized to do so, executed the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public
My Commission Expires:

Signed, sealed and delivered
In the presence of the following witnesses:

BUYER:
CITY OF GAINESVILLE

Print Name: _____

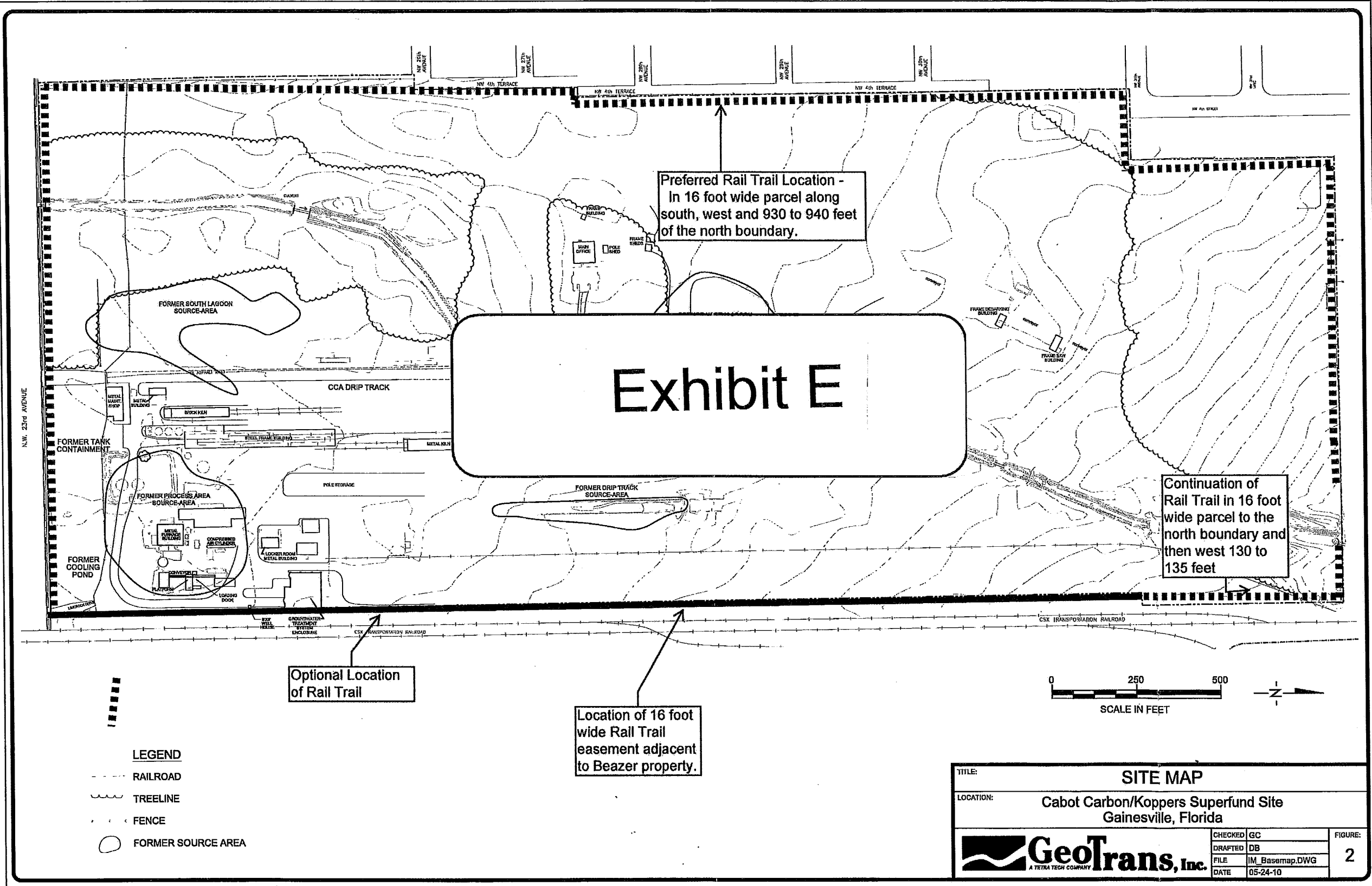
Russ Blackburn, Manager

Print Name: _____

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by Russ Blackburn, as the Manager of the City of Gainesville, a municipal corporation, and who has acknowledged that he/she has executed the same on behalf of the City, and that he was authorized to do so. He is personally known to me or has produced _____ as identification.

Notary Public, State of Florida



Preferred Rail Trail Location -
In 16 foot wide parcel along
south, west and 930 to 940 feet
of the north boundary.

Exhibit E


Continuation of
Rail Trail in 16 foot
wide parcel to the
north boundary and
then west 130 to
135 feet

Optional Location
of Rail Trail

Location of 16 foot
wide Rail Trail
easement adjacent
to Beazer property.



- LEGEND**
- RAILROAD
 - ~ TREELINE
 - - - FENCE
 - FORMER SOURCE AREA

TITLE:		SITE MAP	
LOCATION:		Cabot Carbon/Koppers Superfund Site Gainesville, Florida	
	CHECKED	GC	FIGURE: 2
	DRAFTED	DB	
	FILE	IM_Basemap.DWG	
	DATE	05-24-10	