

DONATION AGREEMENT

THIS DONATION AGREEMENT ("Agreement") is entered into between the City of Gainesville, a municipal corporation of the State of Florida (the "City") and Home Depot U.S.A., Inc. a Delaware Corporation ("Home Depot").

WHEREAS, the City and Home Depot were parties to that certain Option Agreement for Sale and Purchase dated March 26, 2008, under the terms of which Home Depot sold approximately 71 acres of real property, visually depicted on Exhibit "A", to make possible the development of a new City park commonly referred to as the "Hogtown Creek Headwaters Park" (the "Park");

WHEREAS, the purchase of the Park was made possible by a \$3,600,000 grant from the Florida Communities Trust to the City (the "FCT Grant") and a charitable donation in the form of a \$1,200,000 closing credit from Home Depot;

WHEREAS, in accordance with the FCT Grant Contract dated February 13, 2007, the City has developed a Management Plan for the Park, a copy of which is on file with the City Nature Operations division, which describes the City's proposed uses, physical improvements, operation and management of the Park (the "Management Plan");

WHEREAS, Home Depot, as seller, has entered into that certain Purchase and Sale Agreement with Streit's Inc., as purchaser, dated May 16, 2008, under the terms of which Home Depot sold approximately 1.93 acres of real property to Streit's, Inc. (the "Streit's Sale").

WHEREAS, Home Depot desires to make a charitable donation from the proceeds of the Streit's Sale to the City in the form of \$250,000.00 cash or certified funds to assist the City in carrying out the Management Plan;

WHEREAS, after acceptance of the donation by the City Commission, the City will provide Home Depot with a written acknowledgement containing the following information: (a) the amount of cash contributed by Home Depot to the City, (b) a statement indicating that the City does not provide Home Depot with any goods or services in consideration, in whole or in part, for any of the cash contributed by Home Depot to the City, and (c) any other necessary forms, statements or documents, provided to the City by Home Depot, that are required by the Internal Revenue Service for evidencing Home Depot's charitable contribution to the City.

WHEREAS, the parties desire to establish the terms under which the \$250,000.00 charitable donation will be held in trust and expended by the City for the benefit of the Park.

NOW, THEREFORE, in consideration of \$1.00, Home Depot and the City agree as follows:

1. Recitals. The recitals above comprise a material part of this Agreement and are hereby incorporated by reference.

2. Funds held in Trust. Contingent upon the consummation of the Streit's Sale, Home Depot agrees to donate to the City Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) in cash or certified funds (the "Trust Funds"). The City will hold the Trust Funds received from Home Depot in a separate trust account for the benefit of the Park. The City shall have sole discretion in the timing and manner in which the Trust Funds are disbursed and expended; provided, however, the Trust Funds shall be expended solely for the purpose of funding improvements to and management of the Park. Eligible improvements, shall include, but not be limited to, those items listed on **Exhibit "B."** The Trust Funds shall not be expended for on-going operational expenses of the Park, such as salaries or insurance, or for any other non-Park purpose.

3. Interest. Home Depot agrees that any interest earned on the Trust Funds from the time of deposit with the City shall be considered the property of the City and shall be deposited in the Trust Funds account and spent by the City in the same manner as the Trust Funds.

4. Expiration. This Agreement shall expire when the Trust Funds have been fully disbursed pursuant to the terms of this Agreement.

5. Waiver. The failure of the parties to promptly insist upon strict performance for any provision shall not be deemed a waiver of any right or remedy that it may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such provision.

6. Notices. All notices, demands, requests for approvals, or other communications shall be deemed given and delivered on the date delivered in person or on the date mailed by registered or certified mail, postage prepaid, return receipt requested, and addressed as indicated below. These addresses may be changed from time to time in writing delivered to the other party. Until written notice is received, a party may rely upon the last address given. Notice shall be deemed given, if notice is by mail, on the date mailed to the address set forth above or as changed pursuant to this Section.

To Home Depot: Home Depot U.S.A., Inc.
 Attn: Thomas K. Anderson
 2455 Paces Ferry Road
 Atlanta, Georgia 30339

To the City: Office of the City Manager
 City of Gainesville
 P.O. Box 490
 Gainesville, FL 32602

7. Severability. In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provisions herein contained; provided that the invalidity of such covenant, condition or provision does not materially prejudice either party in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

8. Governing Law; Venue; Jurisdiction. The laws of the State of Florida shall govern the validity, performance and enforcement of this Agreement. Each party submits to the jurisdiction of the State of Florida, Alachua County and the courts thereof and to the jurisdiction of the United States District Court for the Northern District of Florida, for the purposes of any suit, action or other proceeding relating to this Agreement and agrees not to assert by way of a motion or a defense or otherwise that such action is brought in an inconvenient forum or that the venue of such action is improper or that the subject matter thereof may not be enforced in or by such courts.

9. Sovereign Immunity. The parties agree that nothing in this Agreement shall be interpreted as a waiver of the City's sovereign immunity, except to the extent provided by and in accordance with section 768.28, Florida Statutes.

10. Captions. The section headings and captions of this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of this Agreement.

11. Successors and Assigns. The terms City and Home Depot shall include their successors and assigns and all benefits and obligations shall inure to and bind such successors and assigns.

12. Time. Whenever a notice or performance is to be done on a Saturday or Sunday or on a legal holiday observed by the City of Gainesville, Florida, it shall be postponed to the next business day.

13. Litigation. In the event of any litigation, including appellate proceedings, arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and costs from the non-prevailing party.

14. Amendment. This Agreement may be amended or modified only by written agreement executed by both parties.

IN WITNESS WHEREOF, the last of the parties executed this Agreement on _____, 2008 (the "Effective Date.")

WITNESSES:

CITY OF GAINESVILLE

By: _____
Russ Blackburn, City Manager

APPROVED AS TO FORM AND LEGALITY

By: *Gicelle M. Shalley*
Asst. City Attorney II

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Russ Blackburn, the City Manager of the City of Gainesville, a municipal corporation, who is personally known to me and duly sworn, acknowledged that as such officer, and pursuant to authority from said corporation, he executed the foregoing instrument for the uses and purposes set forth and contained in said instrument.

Notary Public
Print Name: _____
My Commission expires on: _____

WITNESSES:

Jack Rich
Erelyn Clayton

Home Depot U.S.A., Inc., a Delaware corporation

Thomas K. Anderson
By: Thomas K. Anderson
Its: Sr. Attorney

NR
O.C.

STATE OF Georgia
COUNTY OF Cobb

The foregoing instrument was acknowledged before me this 14 day of May, 2008, by Thomas K. Anderson, as Corporate Counsel – Real Estate of Home Depot U.S.A., Inc., a Delaware corporation, for and on behalf of the corporation, who is personally known to me and duly sworn, acknowledged that he executed the foregoing instrument for the uses and purposes set forth and contained in said instrument.

Connie D. Rockwell
Notary Public
Print Name: Connie D. Rockwell
My Commission expires on: _____



Exhibit A

Legal Description

PARCELS 4 AND 5 OF A MINOR SUBDIVISION AT THE SW CORNER OF HIGHWAY NO. 441 AND NW 53RD AVENUE IN SECTION 19, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA RECORDED IN MINOR SUBDIVISION BOOK 2, PAGES 84-86, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 4

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA AND RUN THENCE NORTH 89°14'27" EAST ALONG THE NORTH LINE OF SAID SECTION 19, A DISTANCE OF 2664.71 FEET TO AN INTERSECTION WITH THE NORTHERLY PROJECTION OF THE EAST RIGHT-OF-WAY LINE OF NW 19TH STREET; THENCE RUN SOUTH 00°42'53" EAST, ALONG SAID NORTHERLY PROJECTION, 50.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF NW 53RD AVENUE; THENCE RUN NORTH 89°14'27" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 660.17 FEET; THENCE RUN SOUTH 00°42'33" EAST, 655.50 FEET; THENCE SOUTH 46°32'08" EAST, 658.39 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 512.72 FEET AND A CENTRAL ANGLE OF 07°47'06"; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 69.66 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 06°31'22" EAST, 69.55 FEET; THENCE NORTH 38°27'24" WEST, 51.57 FEET; THENCE NORTH 10°22'47" EAST, 29.85 FEET; THENCE NORTH 00°02'42" WEST, 52.18 FEET; THENCE NORTH 77°01'02" EAST, 50.14 FEET; THENCE NORTH 32°06'10" EAST, 135.13 FEET; THENCE NORTH 47°07'05" EAST, 55.68 FEET; NORTH 29°57'57" EAST, 77.00 FEET; THENCE NORTH 23°30'55" EAST, 17.27 FEET; THENCE NORTH 16°03'26" EAST, 4.00 FEET; THENCE NORTH 74°42'11" EAST, 58.49 FEET; THENCE NORTH 65°23'58" EAST, 73.31 FEET; THENCE NORTH 82°30'34" EAST, 94.85 FEET; THENCE NORTH 60°06'29" EAST, 59.75 FEET; THENCE NORTH 43°54'18" EAST, 31.28 FEET; THENCE NORTH 65°16'51" EAST, 48.46 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 441 (STATE ROAD NO. 25 & NW 13TH STREET); THENCE RUN SOUTH 46°38'42" EAST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, 75.89 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 5679.58 FEET AND A CENTRAL ANGLE OF 08°26'00" AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 42°36'21" EAST, 835.22 FEET, RESPECTIVELY; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 835.98 FEET; THENCE RUN SOUTH 89°11'43" WEST, 373.70 FEET; THENCE NORTH 00°42'01" WEST, 10.33 FEET; THENCE SOUTH 89°13'02" WEST, 464.51 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 512.72 FEET AND A CENTRAL ANGLE OF 36°27'44"; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 326.29 FEET TO THE POINT OF BEGINNING. CONTAINING 11.10 ACRES, MORE OR LESS.

LESS AND EXCEPT

A PARCEL OF LAND LYING IN PARCEL 4 OF A MINOR SUBDIVISION AT THE SW CORNER OF HIGHWAY NO. 441 AND NW 53RD AVENUE IN SECTION 19, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA RECORDED IN MINOR SUBDIVISION BOOK 2, PAGES 84-86, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA AND RUN THENCE

NORTH 89°14'27" EAST ALONG THE NORTH LINE OF SAID SECTION 19, A DISTANCE OF 2664.71 FEET TO AN INTERSECTION WITH THE NORTHERLY PROJECTION OF THE EAST RIGHT-OF-WAY LINE OF NW 19TH STREET; THENCE RUN SOUTH 00°42'53" EAST, ALONG SAID NORTHERLY PROJECTION, 50.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF NW 53RD AVENUE; THENCE RUN NORTH 89°14'27" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 660.17 FEET; THENCE RUN SOUTH 00°42'33" EAST, 655.50 FEET; THENCE SOUTH 46°32'08" EAST, 658.39 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 512.72 FEET AND A CENTRAL ANGLE OF 44°14'50"; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 395.95 FEET; THENCE RUN NORTH 89°13'02' EAST, 464.51 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 00°42'01" WEST, 426.55 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 441 (STATE ROAD NO. 25 & NW 13TH STREET) AND A POINT ON A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 5679.58 FEET, A CENTRAL ANGLE OF 05°47'49" AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 41°17'15" EAST, 574.39 FEET, RESPECTIVELY; THENCE RUN SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE AND THE ARC OF SAID CURVE, AN ARC DISTANCE OF 574.63 FEET; THENCE RUN SOUTH 89°11'43" WEST, A DISTANCE OF 373.70 FEET; THENCE RUN NORTH 00°42'01" WEST, 10.33 FEET TO THE POINT OF BEINNING. CONTAINING 1.94 ACRES MORE OR LESS.

PARCEL 5

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA AND RUN THENCE NORTH 89°14'27" EAST ALONG THE NORTH LINE OF SAID SECTION 19, A DISTANCE OF 2664.71 FEET TO AN INTERSECTION WITH THE NORTHERLY PROJECTION OF THE EAST RIGHT-OF-WAY LINE OF NW 19TH STREET; THENCE RUN SOUTH 00°42'53" EAST, ALONG SAID NORTHERLY PROJECTION, 50.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF NW 53RD AVENUE TO THE POINT OF BEGINNING; THENCE RUN NORTH 89°14'27" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 660.17 FEET; THENCE RUN SOUTH 00°42'33" EAST, 655.50 FEET; THENCE SOUTH 46°32'08" EAST, 658.39 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 512.72 FEET AND A CENTRAL ANGLE OF 44°14'50"; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 395.95 FEET; THENCE RUN NORTH 89°13'02' EAST, 464.90 FEET; THENCE SOUTH 00°42'01" EAST, 10.34 FEET; THENCE RUN SOUTH 00°42'02" EAST, 1297.21 FEET TO THE NORTH RIGHT-OF-WAY LINE OF NW 45TH AVENUE; THENCE RUN SOUTH 89°13'09" WEST, 894.79 FEET; THENCE NORTH 29°36'50" WEST, 342.45 FEET; THENCE SOUTH 89°13'09" WEST, 259.54 FEET; THENCE NORTH 00°42'33" WEST, 125.00 FEET; THENCE SOUTH 89°13'09" WEST, 150.68 FEET; THENCE SOUTH 28°56'32" WEST, 201.51 FEET; THENCE SOUTH 89°13'09" WEST, 80.00 FEET; THENCE SOUTH 00°48'35" EAST, 140.00 FEET; THENCE SOUTH 29°24'49" EAST, 125.33 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE SOUTH 89°13'09" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 295.00 FEET; THENCE NORTH 58°01'35" WEST, 83.17 FEET TO THE EAST RIGHT-OF-WAY LINE OF NW 19TH STREET; THENCE NORTH 00°42'53" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, 566.07 FEET; THENCE NORTH 89°13'05" EAST, 634.99 FEET; THENCE NORTH 00°42'33" WEST, 686.08 FEET; THENCE SOUTH 89°13'02" WEST, 635.05 FEET TO SAID EAST RIGHT-OF-WAY LINE; THENCE NORTH 00°42'53" WEST, 304.01 FEET; THENCE NORTH 89°11'45" EAST, 305.04 FEET; THENCE NORTH 00°42'43" WEST, 354.12 FEET; THENCE SOUTH 89°10'28" WEST, 305.06 FEET; THENCE NORTH 00°42'53" WEST, 612.94 FEET TO THE POINT OF BEGINNING. CONTAINING 64.74 ACRES, MORE OR LESS.

LESS AND EXCEPT

A PORTION OF PARCEL 5 OF A MINOR SUBDIVISION AT THE SW CORNER OF HIGHWAY NO. 441 AND NW 53RD AVENUE IN SECTION 19, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA RECORDED IN MINOR SUBDIVISION BOOK 2, PAGES 84-86, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA AND RUN THENCE NORTH 89°14'27" EAST ALONG THE NORTH LINE OF SAID SECTION 19, A DISTANCE OF 2664.71 FEET TO AN INTERSECTION WITH THE NORTHERLY PROJECTION OF THE EAST RIGHT-OF-WAY LINE OF NW 19TH STREET; THENCE RUN SOUTH 00°42'53" EAST, ALONG SAID NORTHERLY PROJECTION, 50.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 5 AND THE POINT OF BEGINNING; THENCE RUN NORTH 89°14'27" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF NW 53RD AVENUE AND ALONG THE NORTH LINE OF SAID TRACT 5, A DISTANCE OF 660.42 FEET TO THE NORTHEAST CORNER OF SAID TRACT 5; THENCE RUN SOUTH 00°42'33" EAST ALONG THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 155.00 FEET; THENCE SOUTH 89°14'20" WEST, A DISTANCE OF 360.00 FEET; THENCE SOUTH 30°06'11" WEST, A DISTANCE OF 244.64 FEET; THENCE SOUTH 89°14'20" WEST, A DISTANCE OF 175.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF NW 19TH STREET AND THE WEST LINE OF SAID TRACT 5; THENCE RUN NORTH 00°43'31" WEST ALONG SAID EAST RIGHT-OF-WAY LINE AND SAID WEST LINE, A DISTANCE OF 365.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"
To Donation Agreement

The Florida Communities Trust (FCT) has established the Special Management Conditions for the Hogtown Creek Headwater Nature Park under the Declaration of Restrictive Covenants. The nature park shall be managed only for the conservation, protection and enhancement of natural and historical resources and for compatible passive, natural resource-based public outdoor recreation, along with other related uses necessary for the accomplishment of this purpose. The proposed uses for the nature park are specifically designated in the "Hogtown Headwaters Nature Park Management Plan" dated October 24, 2007, approved by the FCT.

The following planned improvements and management activities, are consistent with the Management Plan, and may be funded in whole or part with the Trust Funds:

1. Resource-based outdoor recreational facilities including a nature trail and picnic pavilion. Trail improvements, including boardwalks and or bridges developed in a manner that allows the general public reasonable access for observation and appreciation of the natural resources on the nature park without causing harm to those resources.
2. User-oriented outdoor recreational facilities including a playground and volleyball court (or other FCT approved user-oriented facility). The facilities shall be located and designed to have minimal impacts on natural resources on the nature park.
3. Interpretive signage to educate visitors about the area's natural environment and unique history.
4. A staffed nature center on the nature park to provide year round education classes or programs.
5. Bike parking stands to provide an alternative to automobile transportation to the nature park.
6. A survey of the natural communities and plant species on the nature parks prior to development. The survey shall be used during development of the nature park to ensure the protection, restoration, and preservation of the natural communities on the park.
7. Preservation and management of the natural communities that occur on the nature park to ensure the long-term viability of these communities.
8. Restoration, in terms of biological composition and ecological function, of approximately 37 acres of degraded uplands.

9. Restoration, in terms of biological composition and ecological function, of approximately 10 acres of degraded wetlands.
10. Management of the nature park in a manner that protects and enhances listed and non-listed native wildlife species and their habitat, including periodic surveys of listed species using the nature park.
11. Stormwater facility for the nature park designed to provide recreation open space or wildlife habitat.
12. The nature park shall be protected and managed as part of an ecological corridor within the City's designated Hogtown Creek Greenway.
13. Ongoing monitoring and control program for invasive vegetation including exotic (non-native) and nuisance native plant species shall be implemented at the nature park.
14. Feral animal removal program for the nature park as necessary.
15. An archaeological survey for any area within the nature park proposed for development prior to commencement of proposed development activities within that area.
16. Parking facilities designed to have minimal impacts on natural resources and incorporating pervious material wherever feasible.