MEMORANDUM

From: Van Scoyoc Associates
To: City of Gainesville
Subject: Federal Agenda Development
Date: August 2, 2017

In preparation for the development of a comprehensive Federal Agenda for the City of Gainesville, we have prepared the following outline of federal policy topics that may impact the City. This outline is an initial step in describing issues that may make up a new Federal Agenda for the City. Additional detail will be provided on each of the topics as we move forward and the list will expand to encompass other areas of interest for the City, and emerging issues in Washington, DC. We look forward to working cooperatively with the City to develop a comprehensive agenda tailored to the unique needs of the City of Gainesville.

Federal Policy Topics:

- **Infrastructure**: The President's 2018 budget proposal provides an outline of the Administration's proposed infrastructure investment. It includes a 10-year distribution of the proposed $200 billion in direct federal spending, but does not specify where that money would be spent or what projects will be eligible for funding. For FY 2018, the budget calls for $5 billion, increasing to $50 billion in FY 2021 and then decreasing through FY 2026 when it is phased out. The Administration has stated that it will release a more detailed infrastructure plan soon. It is essential that the City is engaged as a potential infrastructure plan is developed so projects such as SW 62nd Boulevard, RTS fleet replacement and expansion, and the Smart Cities Initiative projects are positioned to take advantage of any funding opportunities.

- **Department of Housing and Urban Development Formula grant programs (CDBG & HOME):** The City of Gainesville receives direct allocations from two Department of Housing and Urban Development (HUD) grant programs: Community Development Block Grants (CDBG) and the HOME Investment Partnership (HOME). In 2017, the City received just over $1.2 million through CDBG and over $430,000 through HOME. CDBG is a flexible grant program that provides communities with federal funding to address a wide range of unique community development needs. HOME funds are designed to create affordable housing for low-income households and are awarded annually as formula grants to participating jurisdictions, including the City of Gainesville. HUD establishes HOME Investment Trust Funds for each grantee, providing a line of credit that the jurisdiction may draw upon as needed. The program allows local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancement, rental assistance, or security deposits. The Trump Administration has proposed eliminating funding for both of these programs in FY 2018, and although Congress has so far not agreed with this recommendation, both programs are still at risk for reduced funding.

- **Transportation:** After the passage of several short-term authorizations following the expiration of MAP-21 in 2014, Congress finally passed, and the President signed, a five-year surface transportation authorization called the Fixing America's Surface Transportation (FAST) Act. The FAST Act generally maintains many of MAP-21's reforms, but makes a few changes to existing surface transportation programs, as well as slightly increases funding for those programs.

  One of the most significant changes within the FAST Act is the conversion of the Surface Transportation Program from its current form to a new Surface Transportation Block Grant Program, which purportedly allows states greater flexibility in utilizing the funds. Also significant is the reinstatement of the competitive grant program within the Bus and Bus Facilities Program. The grant is designed to provide funds to rehabilitate or replace buses or bus equipment and/or construct bus facilities. It also includes funding for low- or no-emissions buses. These funding streams could be beneficial to the RTS Fleet Replacement and Expansion efforts.

  Meanwhile, the Trump Administration has announced changes to the FASTLANE grant program established by the FAST Act. The program has been renamed the Infrastructure for Rebuilding America (INFRA) grant program and now is meant to emphasize projects that support economic vitality, leverage federal funding with non-federal sources, and use innovative approaches to improve safety and project delivery speed. INFRA has placed an emphasis on innovative technologies, which is a good fit with the City's interest in autonomous transit and connected vehicles. Another transportation grant program, Transportation Investment Generating Economic Recovery (TIGER) has been proposed for elimination in the Administration's budget and in the House's appropriation bill, however the Senate has proposed to minimally increase funding for the program in Fiscal Year 2018. Focus should be given to preserving opportunities for the City to receive federal transportation funding and positioning the City's projects for success, especially where the City's interest aligns with the Administration's priorities for exploring emerging technologies such as autonomous vehicles.

- **EB-5 Visa Program:** The EB-5 visa investor program was created in 1990 and allows foreign entrepreneurs and their spouses and unmarried children under 21, to apply for a green card if they invest at least $500,000 in qualified development projects and create at least 10 permanent jobs in the United States. Through the program, the applicants can receive their green cards in two years, which is a shorter wait than most other immigrants have. In 2016, 9,947 visas were granted under the program. The program has been controversial with accusations of fraud and the implication that it allows immigrants to essentially buy their way into the country. The Trump Administration has stated they will evaluate "wholesale reform of the EB-5 program to ensure the program is used as intended and that investment is being spread to all areas of the country."

Congress extended the authorization of EB-5 program through September 30 in the 2017 omnibus appropriations bill. Last year, the Department of Homeland Security (DHS) proposed a series of changes to the program, including raising the minimum investment from $500,000 to $1.35 million. Congress will need to decide whether to reauthorize the program prior to its expiration and whether to consider any of the changes recommended by the Administration.

- **Public Safety and Emergency Response:** Federal grant funding for many Department of Justice (DOJ) and Department of Homeland Security (DHS) programs are provided as block grants with each state receiving a certain amount of funding, generally linked to population. That funding is then passed through to local jurisdictions to help support police, fire, emergency management, and homeland security functions of government. Examples of these formula programs include the Emergency Management Performance Grant (EMPG) and the Byrne Justice Assistance Grant (JAG).

  Funding from federal programs is also made available to local governments via competitive grant solicitations. Specifically, program funds can be used to hire police officers through Community Oriented Policing Services (COPS) or firefighters through Staffing for Adequate Fire & Emergency Response Grants (SAFER), and purchase equipment through the Assistance to Firefighters Grant (AFG).

  In addition to working to preserving the funding levels of each of these programs, the City must also monitor the changes the Administration has begun to make to the programs. DOJ is now requiring all grantees under the Byrne JAG program to certify compliance with section 1373, which bars any restrictions on communication between local agencies and DOH, permit DHS personnel to access detention facilities to meet with aliens and question his or her right to be in the United States and provide at least 48 hours' notice to DHS regarding the scheduled release date and time of an alien upon DHS' request to take the individual into custody. These new policies are to further the Administration's goal of eliminating federal funding for so-called "sanctuary cities".

  The Department of Justice continues to review other policy directives as well, including how it will handle civil asset forfeiture. Attorney General Jeff Sessions recently announced a new directive, essentially reversing a moratorium on adoptive forfeiture put into place under the Obama administration. Prior to the changes made by the Obama Administration, adoptive forfeiture made up roughly 3% of the overall value of forfeitures in the Department of Justice Asset Forfeiture Program. The policy directive requires, beginning in 2018, law enforcement agencies participating in the Department of Justice Asset Forfeiture Program to provide annual training on state and federal laws related to asset forfeiture to their officers. The Department of Justice will be making specialized course material available later this year and will also be making updates to the Consolidated Asset Tracking System and the adoption form used by local law enforcement agencies. The policy is immediately effective and can be used by local law enforcement agencies for any qualifying asset forfeiture moving forward.

We would also seek to identify sources of federal funding for priority public safety issues for the City, such as diversion programs for troubled youth and the prevention of domestic abuse. The State of Florida will receive $27 million in federal funding this year and an additional $27 million in FY 2018 to help combat the opioid crisis. Lutheran Services Florida Health Systems, which covers Alachua County, will receive $3 million from that allocation.

- **Water resources:** In an effort to respond to the lack of federal funding opportunities for new water infrastructure projects, Congress created a five-year pilot program called the Water Infrastructure Finance and Innovation Act (WIFIA) in the Water Resources Reform and Development Act (WRRDA) of 2014 (H.R. 3080). WRRDA was signed into law in June 2014. Under WIFIA, eligible entities, including local governments, may apply for a low-cost, long-term secured loan from the Army Corps of Engineers and the Environmental Protection Agency (EPA) to finance eligible water infrastructure projects. Loans may be used for clean water and drinking water projects through the EPA, as well as water resources projects (e.g., flood control and navigation) through the Corps. Eligible activities include: planning, feasibility studies, environmental review, permitting, engineering and design, construction, rehabilitation, and property acquisition. The program's benefits are the extended length of the loan and that borrowers can develop customized terms and repayment plans that meet the unique features of specific projects. These options could include regular payments over the life of the loan, payment deferrals until 5 years after completion of the project, a period of interest only payments, or other options to be negotiated between EPA and the borrower. Finally, the program provides loans at a fixed rate equal to the Treasury rate. Currently, that rate would be under three percent. WIFIA could provide another funding option for Gainesville Regional Utilities as they undertake additional beneficial reuse projects.

- **Economic Development Administration:** The Trump Administration has proposed eliminating the Economic Development Administration (EDA). Although Congress has not gone along with this proposal so far in the 2018 appropriations process, both the House and Senate have proposed cuts to the EDA's funding. The EDA is primarily a granting agency that funds economic development projects throughout the country in partnership with local governments or non-profits. Funding from the EDA is used to support private investment and generally funds projects such as road and water infrastructure improvements that can help reinvigorate areas and lead to additional reinvestment in homes and businesses. EDA grant funding could assist the City in their redevelopment efforts.

- **Brownfields/Superfund:** The Cabot-Koppers Superfund site is located in the City of Gainesville and has been in the Superfund Program's National Priorities List in 1984. The site is currently in the remedial design and remedial action phase and a portion of the site has been redeveloped for commercial use. Mitigation, sampling and monitoring are ongoing at the site. The Trump administration has proposed significant cuts to the Environmental Protection Agency (EPA), which oversees the Superfund program. In May of this year, EPA Administrator Scott Pruitt released a memo outlining his plans for the Superfund program. This memo seeks to identify ways to speed up the process of decontamination at Superfund sites. In addition to delegating authority to regional administrators for remedies that cost less than $50 million, he has established a taskforce to examine how the cleanup process can be restructured. It will be essential to make sure any recommended changes to the Superfund program balance the need to return the sites to beneficial use while preserving the environmental protections in the current program.

The EPA also administers a cleanup program to provide financial assistance to state, local and tribal government entities for sites known as brownfields, that have known or suspected contamination, but do not rise to the level of risk of a Superfund site. The brownfields program focuses on providing federal financial assistance for "orphan" sites at which the potential need for cleanup remains unaddressed. EPA's brownfields program awards two different categories of grants: one competitive (Section 104(k)) and one formula-based. In Fiscal Year (FY) 2017, Congress provided the EPA with $80 million for the Section 104(k) competitive grant program. The Trump Administration proposed cutting the funding level for this program to $69 million in FY 2018, however the House has proposed increasing funding to $90 million. The House Transportation and Infrastructure Committee has recently approved the Brownfields Reauthorization Act of 2017. This bill increases funding limits for direct mediation grants, creates a new multipurpose grant for entities to conduct remediation activities at more than one brownfield site in a proposed area, expands grant eligibility to government entities that acquired brownfield property prior to the Brownfields Law and to certain nonprofit organizations. In the Senate, the Brownfields Utilization, Investment and Local Development (BUILD) Act has been introduced by Senators Jim Inhofe (R-OK) and Ed Markey (D-MA). The BUILD Act would increase the funding limit for remediation grants, increase eligibility for government entities and nonprofits and created a revolving loan fund to locate clean energy projects at Brownfields sites.

- **Job Corps**: Gainesville is home to one of the 122 Job Corps Centers across the country run by the Department of Labor. Job Corps is the nation's largest residential education and job training program for at-risk youth ages 16 through 24, serving over 50,000 youth nationwide each year. The Trump Administration's FY 2018 budget funds the Job Corps program at $1.448 billion, which is just over a $200 million reduction in funding from FY 2017 and proposes to achieve this savings by closing low performing centers and concentrating their training on those over the age of 20. The Department of Labor will conduct a comprehensive assessment of all centers to assess the cost of maintaining a physical facility and may lead to suspensions or closures of centers. The House has proposed funding Job Corps essentially level with the FY 2017 enacted amount, at $1.688 billion. The House language also requires the Department of Labor to submit a list with justification to the Committees on Appropriations in the House and the Senate at least 60 days prior to initiating the closure of any existing Job Corps Centers. The City should be engaged in any discussion that could impact the operations of the local Job Corps Center.

- **Waters of the United States:** The Environmental Protection Agency and the Army Corps of Engineers announced in late June that they would be embarking on a two-step process to rewrite the WOTUS rule as a part of implementing President Trump's

February executive order on this issue. The definition of WOTUS provides the jurisdictional scope for programs under the Clean Water Act. A series of decisions by the U.S. Supreme Court over the past decade imposed restrictions on the scope of that definition. In response to those rulings, the EPA and Corps under the Obama administration went through the rulemaking process and finalized a new, more expansive definition in 2015. There were concerns by many local governments and others that the new definition was too expansive, and 31 states sued to stop implementation of the rule. The courts blocked the implementation of the rule while the various lawsuits proceeded. Once President Trump took office this year, he issued an executive order directing the EPA and Corps to reevaluate the Obama Administration's rule.

This proposed rule is the first step in the process and rescinds the rule finalized under the Obama Administration in 2015 and reverts to the previous definition. The second step of the process will be a comprehensive review and redefinition of WOTUS which will consider "Supreme Court decisions, agency guidance, and longstanding practice." It is anticipated that the new definition will signal a significant change in the government's legal strategy for deciding which wetlands and streams are protected under the Clean Water Act. For more than a decade, federal agencies have relied on Justice Anthony Kennedy's opinion in the 2006 wetland-permitting case, Rapanos v. United States, in determining where the federal reach over waterways begins. The court ruled in favor of Rapanos, but in a 4-1-4 vote, the majority split on what approach to use to define government jurisdiction. President Trump's executive order specifically asked the agencies to consider the opinion the late Supreme Court Justice Antonin Scalia wrote in the 2006 case, saying the Clean Water Act ought only to cover navigable waters and waterways "with a continuous surface connection" to them — a far more restrictive definition than what the Obama EPA put into its rule. Relying on Scalia's opinion would likely restrict federal jurisdiction.

- **Tax reform:** The Trump Administration and the 115th Congress are expected to begin to focus on tax reform shortly. Among many of the provisions that will be considered as a part of the proposal is the elimination of the tax exemption for municipal bonds. The elimination of the tax exemption would mean bond issuers would need to offer higher rates to attract investors. It is estimated that the difference in the rate of earnings the City and other local governments would need to offer prospective buyers for their taxable bonds would depend on the market, but typically would range from 1.5 to 2 percent more for those offerings. On $1 million borrowed, this would likely cost $20,000 more in interest per year. Taking this further, if the City were to amortize a $100 million loan over 30 years at taxable bond rates two percent higher than if the bonds were tax-exempt, the additional cost to taxpayers over those 30 years could be roughly $30 million.

- **Remote sales tax legislation:** With some limited exceptions, retailers are only required to collect sales tax in states where they have brick-and-mortar stores. The burden then falls to consumers to report to state tax departments any sales taxes they owe for online purchases. Often, due to complex reporting requirements, consumers do not report those purchases when completing their tax returns. As a result, local retailers can be at a competitive disadvantage because they must collect sales taxes while out-of-state retailers, including many large online and catalog retailers, often offer their customers a discount by collecting no state or local sales taxes.

Therefore, the current sales tax system is perceived as being unfair to brick-and-mortar retailers that employ local residents, including local stores as well as national chains like Best Buy or Home Depot. The lost revenue is also a drain on local governments. In 2014, uncollected sales tax was estimated to have cost local governments $23 billion nationwide. Although legislation to address this issue has failed to gain traction in recent years, there is a small chance that it could be considered as part of the larger discussion on tax reform.

- **National Flood Insurance Program:** With over 1,100 National Flood Insurance Program (NFIP) policies in force in the City of Gainesville, the ongoing affordability and stability of the program is essential to home and business owners in the City. The NFIP is set to expire at the end of September. In June, the House Financial Services Committee reported a package of seven bills related to the NFIP out of committee. These bills are detrimental to Florida consumers and local governments. They would, increase costs for policy holders, create an unfunded mandate by increasing regulatory burdens, costs and responsibilities for local governments, and result in a fewer NFIP participants, thereby undermining the integrity of the program. A bipartisan, bicameral group of Members of Congress, including both Senators Nelson and Rubio, have introduced reauthorization legislation entitled the Sustainable, Affordable, Faire and Efficient (SAFE) NFIP Act. This bill would limit premium rate increases, not create any new unfunded mandates on local governments, create means tested affordability provisions, invest significantly in mitigation and more effectively cap Write Your Own company payments, therefore returning more premium dollars into the NFIP. The City should be engaged to ensure that any reauthorization benefits consumers and local governments.

- **FEMA disaster deductible:** The Federal Emergency Management Agency (FEMA) is considering changes to the Public Assistance Program that would require each state to meet a deductible as a condition of being able to access funding from FEMA for the repair and replacement of public infrastructure in the event of a federally declared disaster. FEMA has stated that the intent of the deductible is to increase resiliency and reduce future disaster costs, in part due to pressure from Congress and the Government Accountability Office to do so. The deductible, as currently proposed, also aims to reduce federal expenditures in the aftermath of a disaster, potentially shifting this burden to state and local governments. Florida’s starting annual deductible is the highest, at $141.5 million. With the application of potential credits, Florida’s estimated starting deductible could be reduced to $57.9 million. FEMA’s proposal is silent on how this deductible would be dived between state and local governments. Consideration of this proposal and other ideas to help reduce the federal costs of disasters will continue to be considered by the Administration and Congress.