

**LEASE AGREEMENT BETWEEN THE CITY OF GAINESVILLE AND  
ALACHUA COUNTY FOR LEASE OF CITY OWNED PROPERTY – CHAPMAN’S  
POND PARK AND TRAILS**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2000, by and between the City of Gainesville, doing business as Gainesville Regional Utilities, a municipal corporation organized and existing under the laws of the State of Florida, herein referred to as “GRU”, and Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the “COUNTY”. GRU and the COUNTY shall also be referred to herein as “LESSOR” and “LESSEE”, respectively.

**WITNESSETH:**

**WHEREAS**, GRU is the owner and developer of property known as Chapman’s Pond Park and Trails, (**THE FACILITIES**), as described in Exhibit “A”, attached hereto and made a part hereof; and

**WHEREAS**, GRU and the COUNTY desire to enter into a lease agreement for the subject property to facilitate its use as a passive recreation area for the citizens of Alachua County; and

**WHEREAS**, Chapter 163, Florida Statutes authorizes GRU and the COUNTY, to enter into such agreements to cooperatively and efficiently use their powers to provide public services that will advance the general health, safety and welfare of the citizens of Alachua County.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and agreements herein contained, the Parties agree as follows:

**ARTICLE 1.           Term**

GRU (**LESSOR**) leases to the COUNTY (**LESSEE**), and **LESSEE** agrees to lease from **LESSOR, THE FACILITIES**, as described in Exhibit “A”, for an initial period of ten (10) years, commencing on the date set forth in this Agreement, subject to the following terms and conditions.

**ARTICLE 2.           Lessor’s Uses**

**LESSOR’s** use of **THE FACILITIES** is without limitation except as provided for in this Agreement or as prohibited by law.

Reclaimed water features are provided by **LESSOR** and shall remain intact at the discretion of **LESSOR** and only as permitted by law.

**LESSOR** shall have the exclusive right and duty to operate and maintain its reclaimed water structures, i.e. ponds, reclaimed waterfalls, streams, pipes, valves, irrigation system (including the 6" supply lines, valves, and water canons), and all other appurtenances in a manner that is in its best interest without limitation.

It is the intention of the parties to this Agreement that **LESSEE** and **LESSOR** jointly agree to designate "Primary Events." Primary Events may include utilizing **THE FACILITIES** for community events, private use events, school functions, athletic or recreational activities, etc. When a Primary Event is so designated, **LESSOR** must obtain **LESSEE's** permission to possess or use **THE FACILITIES** for any other function other than access to **THE FACILITIES** for inspection or to perform emergency repairs to the reclaimed water structures.

**LESSOR** retains the right to possess and use **THE FACILITIES** for any other purpose not specifically provided for in this Agreement, by notifying **LESSEE** in writing at least 4 weeks in advance as to its intention to do so. **LESSOR** shall make every reasonable effort not to interfere with **LESSEE's** planned event(s).

**LESSEE** understands that **LESSOR** needs to access its reclaimed water facilities periodically to perform maintenance. **LESSEE** will minimize interference with **LESSOR's** access, or with **LESSOR's** maintenance, when scheduling Primary Events.

### **ARTICLE 3. Lessee's uses**

During the term of this Agreement, **LESSEE** has the right to possess and use **THE FACILITIES** without limitation except as provided for in this Agreement.

Except as otherwise provided in the Agreement, **LESSEE** shall have exclusive rights to schedule events and control access to **THE FACILITIES**

### **ARTICLE 4. Improvements**

**LESSEE** acknowledges that **LESSOR** may continuously improve and enhance **THE FACILITIES** by involving public and private benefactors.

Reserved areas have been designated in Exhibit "B", attached hereto and made a part hereof, and may not be changed without **LESSOR's** written approval.

Access to **THE FACILITIES** by **LESSOR** for property improvements may not be unreasonably withheld.

**LESSOR** may improve **THE FACILITIES**, using its own crews or contractors, during the life of this Agreement. Any improvements to **THE FACILITIES**, except to the reclaimed

water facilities, shall first be reviewed by **LESSEE** prior to installation. Construction activities shall be scheduled so as to not interfere with **LESSEE**'s scheduled use of **THE FACILITIES**.

~~**LESSOR** may install permanent displays, signs or markers that provide information to the users of the facilities. These installations shall be reviewed by **LESSEE** prior to placement. Other permanent displays, signs, advertisements or notices may not be placed within the boundaries of **THE FACILITIES** without written approval of **LESSOR** and **LESSEE**.~~

All improvements added to **THE FACILITIES** by **LESSOR**, shall remain the property of **LESSOR**. Responsibility for the maintenance of the improvements shall be negotiated between **LESSOR** and **LESSEE** prior to installation of the improvements.

Plantings installed by **LESSOR** or its agents shall be maintained by **LESSOR** unless otherwise agreed to in writing, in a aesthetically pleasing appearance.

**LESSEE** may not make any improvements or alterations to **THE FACILITIES** without the written approval from **LESSOR**.

At the termination of this Agreement, any permanent alterations, installations, changes, replacements, additions or improvements that have been made by **LESSEE** or its agents, shall remain and be deemed a part of **THE FACILITIES**.

#### **ARTICLE 5. Revenues Generated**

**LESSOR** may not collect any remuneration for any purpose, where any portion of **The FACILITIES** is used or associated with any internal or an external event, unless the collection of such is mutually agreed to in writing by the parties prior to the collection.

Neither **LESSEE** nor its agents may authorize vending or concessions of any sort or conduct sales on the property unless approved in writing by **LESSOR**.

#### **ARTICLE 6. Prohibited and Regulated Uses**

**LESSEE** may not use **THE FACILITIES** for long term storage of equipment. Short-term storage of equipment for use at **THE FACILITIES** may be permitted by mutual agreement of the parties in writing. Short term storage shall be defined as any storage less than six (6) months.

**LESSEE** or his designee may at any time and with the approval of **LESSOR**, establish rules and regulations that enhance or promulgate the enjoyment of **THE FACILITIES** by the public or that increase the safety to the public. **LESSOR** has heretofore established the following minimum rules that **LESSEE** agrees to enforce at **THE FACILITIES** in a manner consistent with the County's Veterans Park:

1. Human contact with the reclaimed water is discouraged and use of the reclaimed water features for swimming, boating, rafting, fishing, and wading, etc., is prohibited.
2. Hunting of any sort, using any device, is prohibited. Devices that discharge projectiles of any kind are prohibited for use at **THE FACILITIES**.
3. Motorcycles, ATVs and other motorized vehicles are prohibited unless they are being used for official business of **LESSEE** or **LESSOR**. Vehicles shall not be left at **THE FACILITIES** after normal public access hours unless approved by the parties.
4. Private overnight events or camping is prohibited unless authorized in writing in advance by the parties. Grills used for cooking may be used only in designated areas. Other fires of any sort are prohibited.
5. Active recreation, that is not compatible with natural areas, except the use of the area designated for special events parking and soccer, is prohibited.
6. Pets shall be kept under control at all times and in accordance with County policy. Pet owners shall abide by all Alachua County regulations and owners are responsible for the sanitary disposal of wastes in the waste receptacles provided.
7. **LESSEE** may set reasonable hours for use of **THE FACILITIES** and is responsible for closing **THE FACILITIES** from vehicle access, and to the extent possible, public access, after normal hours.

#### **ARTICLE 7. Maintenance**

Areas designated in Exhibit "B", as "grass areas" shall be maintained in a neat and presentable condition by **LESSEE** during the term of the agreement.

Public access to **THE FACILITIES** will be from **LESSEE**'s Kanapaha Park. General daily parking will be in the paved parking area in Kanapaha Park. The "grass areas" in Exhibit "B" will be used for special events parking when the Kanapaha Park paved parking area is deemed insufficient for the special event.

Driving of motor vehicles in non-designated areas is prohibited except for official business or park maintenance purposes.

**LESSOR** shall place waste receptacles in picnic areas. Maintenance of waste receptacles and disposal of wastes shall be the responsibility of **LESSEE**.

**LESSEE** shall take reasonable care to prevent vandalism to **LESSOR**'s property and improvements. Damage or destruction to **THE FACILITIES** shall be the responsibility of **LESSEE** to repair, except for the reclaimed water structures, i.e. ponds, reclaimed waterfalls, streams, pipes, valves, irrigation system (including the 6" supply lines,

valves, and water canons) and normal wear and tear as the result of **LESSEE's** normal uses.

**LESSEE** shall be responsible for cleanup of **THE FACILITIES** for all events scheduled by **LESSEE**. ~~**LESSOR** will be responsible for the cleanup of all events scheduled by **LESSOR**.~~

Areas that contain aesthetic features such as rock placement(s), water falls, flowers, landscape plantings, severe slopes, stream banks, picnic areas, etc. shall be maintained by **LESSOR** unless otherwise designated in Exhibit "B".

**LESSOR** and **LESSEE** shall notify the other party in writing in instances where maintenance practices are not adequate or where unsafe, unsightly or unsanitary conditions are not being addressed by the responsible party.

#### **ARTICLE 8. Insurance**

**LESSEE's** Insurance shall be maintained at the same amounts and general conditions as maintained in effect at **LESSEE's** Kanapaha Park Facility, except that at a minimum the following types of coverage for all public activities shall be provided:

1. General Liability
2. Workers Compensation (statutory limits)
3. Employer's Liability Insurance
4. Automobile Liability
5. Umbrella Liability Insurance.

**LESSEE** may meet this obligation through providing self-insurance coverage. In such case, acceptable proof of such self insurance coverage shall be provided to **LESSOR**

**LESSEE** shall furnish **LESSOR** a certificate of insurance in a form acceptable to **LESSOR** for the insurance required. Such certificate or an endorsement provided by **LESSEE** must state **LESSOR** will be given thirty (30) days written notice prior to cancellation or material change in coverage. Copies of an endorsement naming **LESSOR** as Additional Insured must accompany the certificate of insurance.

**LESSEE** shall maintain primary responsibility for any claim resulting from **LESSEE's** activity or an event scheduled, or controlled by **LESSEE**.

**LESSOR** shall maintain primary responsibility for all other uses of **THE FACILITIES**.

**LESSOR** and **LESSEE** agree that significant costs will be incurred by each of them for a liability claim. Accordingly, **LESSOR** and **LESSEE** agrees to pursue all available recoveries allowed under insurance policies with respect to any loss thereby, before asserting any claim or pursuing any remedy with respect to such loss against the other party.

## **ARTICLE 9. Future Development**

It is the intention of **LESSOR** to continue to develop and expand **THE FACILITIES**. **LESSOR** and **LESSEE** agree to include such improvements in **THE LEASE** Agreement through mutual agreement in the form of an attachment(s) and Exhibit(s) to this document and agreed to in writing by the signature parties of this Agreement or their authorized designees.

All provisions of **THE LEASE** Agreement, and any attachments, including dates of commencements and duration of agreement, shall govern and shall become part of and be covered by this Lease Agreement. The parties are not obligated to adhere to any other agreements concerning **THE FACILITIES** that are not specifically referred to herein or that have been made part of this Agreement by attachment.

## **ARTICLE 10. Notices**

All notices, consents, approvals and other communications given to either party under this Agreement shall be in writing to such party at the address set forth below:

General Manager for Utilities  
Gainesville Regional Utilities  
P.O. Box 147117, Station A134  
301 S.E. 4<sup>th</sup> Avenue  
Gainesville, FL 32614-7117

Public Works Director  
Alachua County  
P.O. Box 1188  
Gainesville, FL 32602-1188

## **ARTICLE 11. Third Party Beneficiaries**

This Lease is solely for the benefit of the parties hereto, and their successors and assigns as permitted under this Agreement, and no provision of this Agreement shall be deemed to confer upon any other person any remedy, claim, liability, reimbursement, cause of action or other right.

**LESSEE** may not assign this lease or sublet any part of **THE FACILITIES** without the written consent of **LESSOR**.

## **ARTICLE 12. Extensions**

After the initial term of this lease, the Lease Agreement may be extended by written mutual agreement of both parties in five-year increments.

**ARTICLE 13. Default and Termination**

The failure of either party to comply with any provision of this agreement shall place the party in default. Prior to terminating this agreement, the non-defaulting party shall notify the defaulting party in writing. Such notification shall make specific reference to the provision, which gave rise to the default. The defaulting party shall then be entitled to a period of seven (7) days in which to cure the default. In the event the default is not cured within the seven-day period, this agreement may be terminated. The failure of either party to exercise this right shall not be considered a waiver of such right in the event of any further default or non-compliance.

Either party may terminate this agreement with or without cause by sending written notice to the other party at least thirty (30) days prior to the date of terminating this agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease Agreement to be executed for the uses and purposes therein expressed on the day and year set forth above.

**LESSEE:**  
ALACHUA COUNTY, FLORIDA

BY: \_\_\_\_\_  
Penelope Wheat  
Chair, Board of County Commission

ATTEST:

\_\_\_\_\_  
J.K. "Buddy" Irby, Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Alachua County Attorney's Office

**LESSOR:**  
GAINESVILLE REGIONAL UTILITIES/  
CITY OF GAINESVILLE

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

Michael L. Kurtz:  
General Manager for Utilities

Approved as to Form and Legality:

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

Raymond O. Manasco, Jr.  
Utilities Attorney  
City of Gainesville, FL

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