

ORDINANCE NO. 130557

An ordinance of the City of Gainesville, Florida, to vacate, abandon, and close a portion of SW 42nd Street generally located between SW 24th Avenue and the 3200 block of SW 42nd Street, together with two stormwater parcels associated with SW 42nd Street, as more specifically described in this ordinance; providing terms and conditions; providing a severability clause; providing a repealing clause; providing directions to the Clerk of the Commission; and providing an effective date.

WHEREAS, S. Clark Butler Properties Corporation, a Florida corporation, acting as General Partner of S. Clark Butler Properties, Ltd., a Florida limited partnership, (“Developer”) is the owner and developer of certain property commonly referred to as the “Butler Development,” which is generally located between SW Archer Road and SW 24th Avenue and between SW 40th Boulevard and SW 34th Street; and

WHEREAS, the City approved Butler Development as a Planned Development (PD) in accordance with the City’s Comprehensive Plan and Land Development Code by Planned Use District (PUD) Ordinance No. 121107 and PD Ordinance No. 121108, both adopted on November 21, 2013; and

WHEREAS, the Developer and the City agree, subject to the terms and conditions as set forth herein and pursuant to Section 30-192 of the City’s Land Development Code, to vacate, abandon, and close a public right-of-way that includes a portion of SW 42nd Street between the northern and southern boundaries of the Butler Development PD (approximately from SW 24th Avenue to the 3200 block of SW 42nd Street) together with two (2) stormwater parcels associated with SW 42nd Street, as more particularly described herein, to make possible the development of the Butler Development PD; and

1 **WHEREAS**, the City acquired the said public right-of-way and associated stormwater
2 parcels by the adoption, on July 14, 2009, of Alachua County Resolution 09-64 by the Board of
3 County Commissioners of Alachua County, Florida, and

4 **WHEREAS**, Section 30-192 of the City's Land Development Code allows the City to
5 vacate a public street or public place upon determining that it no longer serves a public purpose
6 or that the vacation of the public street or public place is in the public interest; and

7 **WHEREAS**, municipalities in Florida have the authority under Article VIII, Section 2(b)
8 of the Florida Constitution and Section 166.021(4), Florida Statutes, to impose conditions on
9 vacation of a public right-of-way. See *City of Temple Terrace v. Tozier*, 903 So. 2d 970 (Fla.
10 2nd DCA 2005); and

11 **WHEREAS**, the City finds that after the Developer constructs and dedicates to the public
12 use and benefit certain road improvements as described in Section 2 of this ordinance and as
13 shown on Exhibit "A" attached hereto and made a part hereof as if set forth in full, the said
14 public right-of-way and associated stormwater parcels being vacated herein will no longer be
15 needed to serve a public purpose; and

16 **WHEREAS**, the request to vacate the said public right-of-way and associated stormwater
17 parcels subject to the terms and conditions as set forth herein was presented to and approved by
18 the appropriate departments of the City; and

19 **WHEREAS**, on January 22, 2015, a public hearing was held by the City Plan Board,
20 which acts as the local planning agency pursuant to Section 163.3174, Florida Statutes, where it
21 voted to recommended that the City Commission approve this petition to vacate the said public
22 right-of-way and associated stormwater parcels subject to the terms and conditions as set forth
23 herein; and

1 **WHEREAS**, at least ten (10) days' notice has been given once by publication in a
2 newspaper of general circulation notifying the public of this proposed ordinance and of public
3 hearings in the City Hall Auditorium located on the first floor of City Hall in the City of
4 Gainesville; and

5 **WHEREAS**, public hearings were held pursuant to the notice described above at which
6 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard;
7 and

8 **WHEREAS**, the City Commission finds that it is in the public interest to vacate,
9 abandon, and close the public right-of-way and associated stormwater parcels that are the subject
10 of this ordinance, subject to the terms and conditions as set forth herein.

11 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
12 **CITY OF GAINESVILLE, FLORIDA:**

13 **Section 1.** Upon the Developer completing all of the terms and conditions specified in
14 Section 2 of this ordinance and the City's recordation of this ordinance together with the
15 executed affidavit of completion (as described in Section 2 of this ordinance) in the Public
16 Records of Alachua County, Florida, the following described public right-of-way and associated
17 stormwater parcels in the City of Gainesville shall be vacated, abandoned, and closed for use by
18 the public generally.

19 See legal description attached as Exhibit "B" and made a part hereof as if set forth
20 in full. The location of the property is shown on Exhibit "C" for visual reference.
21 In the event of conflict or inconsistency, Exhibit "B" shall prevail over Exhibit
22 "C".
23

24 **Section 2.** The public right-of-way and associated stormwater parcels described in
25 Section 1 of this ordinance shall not be vacated, abandoned, and closed for use by the public
26 unless and until the Developer has satisfied all of the following terms and conditions at no cost

1 or expense to the City. When the Developer has completed all of the following terms and
 2 conditions and same have been approved and accepted by the City, the City Manager shall
 3 evidence the completion and approval of the terms and conditions by executing the affidavit of
 4 completion attached as Exhibit "D", which shall be recorded together with this ordinance in the
 5 Public Records of Alachua County, Florida.

- 6 1. The Developer shall construct and dedicate to the public use and benefit: 1) an extension
 7 of SW 62nd Boulevard from Archer Road to the western boundary of the Butler
 8 Development PD, 2) modifications of SW 43rd Street to connect the northernmost part of
 9 the new SW 62nd Boulevard extension to SW 24th Avenue, and 3) a new extension of SW
 10 42nd Street that will connect the Butler Development PD's southern boundary to the new
 11 SW 62nd Boulevard extension, all as shown on Exhibit "A" attached hereto and made a
 12 part hereof as if set forth in full.
- 13 2. The Developer shall construct all necessary intersection modifications in association with
 14 the road improvements set forth in Exhibit "A".
- 15 3. The Developer shall complete all improvements that may be required by the Florida
 16 Department of Transportation in association with the road improvements set forth in
 17 Exhibit "A".
- 18 4. The Developer shall relocate all utilities that are located within the public right-of-way
 19 and stormwater parcels described in Section 1 of this ordinance.
- 20 5. The Developer shall grant utility easements in the property set forth in Exhibit "A" to
 21 Gainesville Regional Utilities or any other affected public or private utilities by recorded
 22 Easement Agreement, in form and content acceptable to the utility and at no cost or
 23 expense to the utility.
- 24 6. All road improvements described herein and set forth in Exhibit "A" shall be fully
 25 constructed, certified as open for traffic, and accepted for maintenance by the City's
 26 Public Works Department.
- 27 7. The Developer shall convey to the City fee simple title free from any encumbrances,
 28 except any utility easements granted, to the property associated with the road
 29 improvements set forth in Exhibit "A".

30
 31 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance
 32 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
 33 finding shall not affect the other provisions or applications of this ordinance that can be given

1 effect without the invalid or unconstitutional provision or application, and to this end the
2 provisions of this ordinance are declared severable.

3 **Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of
4 such conflict hereby repealed.

5 **Section 5.** Upon receipt from the City Manager of the executed affidavit of completion
6 (as described in Section 2 of this ordinance), the Clerk of the Commission or designee is
7 authorized and directed to record a true copy of this ordinance together with the affidavit of
8 completion in the Public Records of Alachua County, Florida.

9 **Section 6.** This ordinance shall become effective immediately upon adoption; however,
10 the vacation of the public right-of-way and associated stormwater parcels that are the subject of
11 this ordinance shall not become effective until this ordinance together with the executed affidavit
12 of completion (as described in Section 2 of this ordinance) has been recorded in the Public
13 Records of Alachua County, Florida.

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15 **PASSED AND ADOPTED** this ____ day of _____, 2015.

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EDWARD B. BRADDY
MAYOR

Attest:

Approved as to form and legality:

KURT M. LANNON
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

30 This ordinance passed on first reading this ____ day of _____, 2015.

1
2 This ordinance passed on second reading this _____ day of _____, 2015.

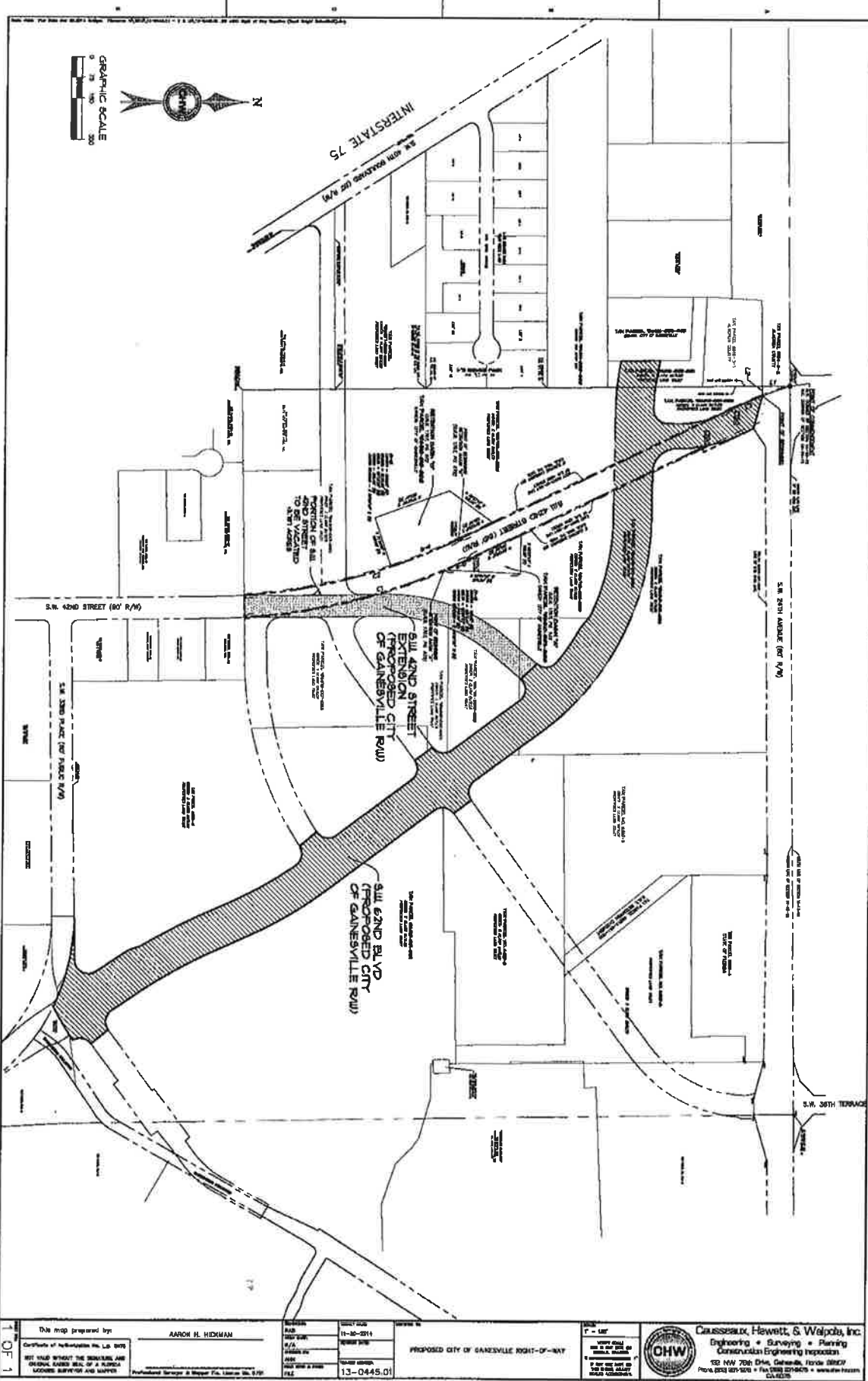


EXHIBIT "A" TO ORDINANCE NO. 130557

This map prepared by AARON H. HENKMAN Certificate of Registration No. LP 8078 SET VALID WITHOUT THE SIGNATURE AND DESIGN NUMBER SEAL OF A LICENSED SURVEYOR AND LANDSCAPE ARCHITECT Professional Services & Design, Inc., Leesville, FL, USA	DATE 11-30-2014	SHEET NO. 13-0445.01	7 - 1/8" 1" = 100' ALL DIMENSIONS AND DISTANCES TO BE SHOWN ON THIS MAP SHALL BE AS SHOWN UNLESS OTHERWISE NOTED. THIS MAP IS THE PROPERTY OF CAUSSEBAUX, HEWETT, & WALPOB, INC. AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON.
	DRAWN BY CHECKED BY DATE 11-30-2014		
PROPOSED CITY OF GAINESVILLE RIGHT-OF-WAY			CAUSSEBAUX, HEWETT, & WALPOB, INC. Engineering • Surveying • Planning Construction Engineering Inspection 122 NW 72nd Dr., Gainesville, Florida 32607 Phone: (352) 331-9276 • Fax: (352) 331-9475 • www.chw.com CA 043726

Exhibit "B" to Ordinance No. 130557

Partial R/W Vacation – SW 42nd Street

A PORTION OF SW 42ND STREET, SITUATED IN SECTION 14, TOWNSHIP 10 SOUTH, RANGE 19 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 5/8" REBAR & CAP (LB#7482) MARKING THE NORTHWEST CORNER OF SAID SECTION 14, TOWNSHIP 10 SOUTH, RANGE 19 EAST; THENCE SOUTH 00°40'10" EAST, ALONG THE WEST LINE OF SAID SECTION 14, A DISTANCE OF 100.02 FEET; THENCE DEPARTING SAID WEST LINE, NORTH 89°19'50" EAST, 34.91 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SW 42ND STREET, AND THE **POINT OF BEGINNING**; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE, SOUTH 74°51'34" EAST, A DISTANCE OF 122.80 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID SW 42ND STREET; THENCE SOUTH 25°44'55" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 198.98 FEET; THENCE SOUTH 63°53'08" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 17.25 FEET; THENCE SOUTH 25°48'51" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 938.38 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 2217.45 FEET, AND BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF SOUTH 14°45'33" EAST, 843.76 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE AND SAID EASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 21°56'07", AN ARC DISTANCE OF 848.93 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE END OF SAID CURVE; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE, SOUTH 88°51'13" WEST, A DISTANCE OF 80.41 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF SW 42ND STREET, SAID POINT LYING ON A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 2137.45 FEET, AND BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH 14°47'23" WEST, 809.53 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 21°49'55", AN ARC DISTANCE OF 814.45 FEET TO THE END OF SAID CURVE; THENCE NORTH 25°48'40" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 1092.60 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 1751.50 FEET, AND BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH 23°40'28" WEST, 125.41 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°06'12", AN ARC DISTANCE OF 125.43 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 3.787 ACRES, MORE OR LESS.

AND

RETENTION BASINS "A" & "B", AS RECORDED IN OFFICIAL RECORDS BOOK 1797, PAGE 672 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA.

Tech: rickb Plot Date: Nov 04, 2014 9:19am Filename: H:\2013\13-0445.01 - S & LD\13-0445.01_SW 42ND Right of Way Vocallon (Scott Wright Submittal).dwg

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

LOCATED IN SECTIONS 14, TOWNSHIP 10 SOUTH, RANGE 19 EAST,
CITY OF GAINESVILLE, ALACHUA COUNTY, FLORIDA.
•SKETCH - NOT A BOUNDARY SURVEY.

S.W. 24TH AVENUE (80' R/W)

LINE DATA TABLE

LINE	DIRECTION	LENGTH
L1	S 0°40'10" E	100.02
L2	N 89°19'50" E	34.91'
L3	S 74°51'34" E	122.80'
L4	S 25°44'55" E	198.98'
L5	S 63°53'08" W	17.25'
L6	S 88°51'13" W	80.34'

CURVE DATA TABLE

CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BEARING
C1	848.93'	2217.45'	21°56'07"	429.73'	843.76'	S 14°45'33" E
C2	814.45'	2137.45'	21°49'55"	412.22'	809.53'	N 14°47'23" W
C3	125.43'	1751.50'	4°06'12"	62.74'	125.41'	N 23°40'28" W

LEGEND:

- (R) = DATA BASED ON DEEDS OF RECORD
- (M) = DATA BASED ON FIELD MEASUREMENTS
- O.R.B. = OFFICIAL RECORDS BOOK
- PG. = PAGE
- P.B. = PLAT BOOK
- R/W = RIGHT OF WAY
- ⊙ = (FRC) FOUND REBAR & CAP (SIZE AND TYPE AS NOTED)

SURVEYOR'S NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON NAD83(90) STATE OF FLORIDA NORTH ZONE AS ESTABLISHED BY FLORIDA DEPARTMENT OF TRANSPORTATION-DISTRICT TWO HORIZONTAL CONTROL POINTS, "2609005 C8", "2609005 C9" & "2609005 C10".

DESCRIPTION:
(SEE ATTACHED)

TAX PARCEL #06810-001-003
OWNER: S CLARK BUTLER
PROPERTIES LAND TRUST

TAX PARCEL #06810-012-000
OWNER: S CLARK BUTLER
PROPERTIES LAND TRUST

TAX PARCEL #06814-000-000
OWNER: IMS 2707 INC

LOT 1
LOT 2
LOT 15
LOT 16

TAX PARCEL #06195-001-000
OWNER: S CLARK BUTLER
PROPERTIES LAND TRUST

POINT OF BEGINNING
RETENTION BASIN "B"
(O.R.B. 1797, PG. 672)

RETENTION BASIN "B"
O.R.B. 1797, PG. 672
TAX PARCEL #06810-010-000
OWNER: CITY OF GAINESVILLE

TAX PARCEL #06827-000-000
OWNER: S CLARK BUTLER
PROPERTIES LAND TRUST

TAX PARCEL 8810-1-4
AUTO CRAFT INVESTMENTS, INC.

TAX PARCEL #06810-001-003
OWNER: S CLARK BUTLER
PROPERTIES LAND TRUST

PORTION OF S.W.
42ND STREET
TO BE VACATED
±3.187 ACRES

TAX PARCEL 8800-24
SOUTHWEST BUSINESS PARK, INC.

TAX PARCEL 8800-17
SOUTHWEST SELF STORAGE, INC.

TAX PARCEL 8800-27
SCRUBBERS, INC.

TAX PARCEL 8801



This map prepared by: **AARON H. HICKMAN**
 Certificate of Authorization No. L.S. 5075
 NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
 Professional Surveyor & Mapper, Fla. License No. 6791

REVISION: AARON H. HICKMAN
 DATE: 11-4-2014
 DRAWN BY: N/A
 CHECKED BY: N/A
 PROJECT NUMBER: 13-0445.01
 FILE

SCALE: 1" = 150'
 BAR IS ONE HALF INCH
 LONG AND ONE INCH
 WIDE. ORIGINAL DRAWING IS
 IN THE SHEET ADJACENT
 SHEET NUMBER 1.

CHW
 CHW
 Causseaux, Hewett, & Watpole, Inc.
 Engineering • Surveying • Planning
 Construction Engineering Inspection
 132 NW 75th Drive, Gainesville, Florida 32607
 Phone (352) 331-5176 • Fax (352) 331-5476 • www.chwh.com
 CA-3075

[Space Above This Line For Recording Data]

Affidavit of Completion

Ordinance No. 130557 Terms and Conditions

Before me, the undersigned Notary duly authorized to take acknowledgments and administer oaths, personally appeared the undersigned (“Affiant”), who makes this Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth herein are true and correct to the best of his/her knowledge:

- 1. The City of Gainesville, Florida, adopted Ordinance No. 130557 to vacate certain public right-of-way and associated stormwater parcels, as more particularly described therein, conditional on S. Clark Butler Properties Corporation, a Florida corporation, acting as General Partner of S. Clark Butler Properties, Ltd., a Florida limited partnership (“Developer”) completing, at no cost to the City, all of the terms and conditions specified in Section 2 of Ordinance No. 130557. The Developer has completed, at no cost to the City, all of the terms and conditions specified in Section 2 of Ordinance No. 130557 and same have been approved and accepted by the City.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the matters, facts and things set forth herein are true and correct to the best of my knowledge.

City Manager

Date

Print Name

WITNESSES:

Name

Print Name

Name

Print Name

State of Florida
County of Alachua

The forgoing instrument was sworn to and subscribed before me this _____ day of _____, 20____, by _____, City Manager for the City of Gainesville, Florida. He/she [] is personally known to me or [] has produced a driver’s license as identification.

[Notary Seal]

Notary Public

Print Name

My Commission Expires: _____