

**CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY  
(South Park Investment Group to City)**

**PARTIES: SOUTHPARK INVESTMENT GROUP, LLC**, a Florida limited liability corporation, whose address is 321 SW 13<sup>th</sup> Street, Gainesville, Florida 32601, ("Seller"), and the **CITY OF GAINESVILLE**, a Florida municipal corporation, whose mailing address is Post Office Box 490, Station 58, Gainesville, Florida 32627, ("Buyer"), hereby agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively "Property") pursuant to the terms and conditions of this Contract for Sale and Purchase and any riders and addenda ("Contract"):

**1. DESCRIPTION:**

(a) Preliminary legal description of the Real Property located in Alachua County, Florida:

See **EXHIBIT "A"** attached to this Contract and made a part hereof.

The parties agree that the final legal description will be prepared by the Buyer's surveyor within the time provided in Paragraph 8B below.

(b) A portion of Alachua County Tax Parcel: 13337-000-000, vacant property.

(c) Personal Property: None, vacant property.

(d) Other items included are: None, vacant property.

(e) Items of Personal Property (and leased items, if any) excluded are: None, vacant property.

**2. PURCHASE PRICE: See Paragraph 9 below.**

**3. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS; EFFECTIVE DATE:**

(a) If this Contract is not executed by both the Seller and the Buyer on or before **April 26, 2016**, the offer is deemed withdrawn, any deposit(s) shall be returned to Buyer, and the parties shall be relieved of all obligations under this Contract.

(b) The effective date of this Contract ("Effective Date") will be the date when the last of the following events have occurred: the Seller has signed this Contract and the Buyer has signed this Contract.

**4. FINANCING:**

This is a cash transaction with no contingencies for financing.

**5. TITLE EVIDENCE: Within ten (10) days of the effective date:**

Title insurance commitment with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see Standard A for terms) shall be obtained by (CHECK ONLY ONE):

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

6. **CLOSING DATE:** This transaction shall be closed and the closing documents delivered on **May 26, 2016** ("Closing"), unless modified by other provisions of this Contract. Closing shall occur at Community Title, LLC, 175 NW 138<sup>th</sup> Terrace, Newberry, Florida.
  
7. **RESTRICTIONS; EASEMENTS; LIMITATIONS:** Seller shall convey marketable title free and clear of all liens, encumbrances, mortgages, taxes, or assessments of any kind or nature, only 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 without right of entry; unplatted public utility easements of record; taxes for year of Closing and subsequent years; provided, that there exists at Closing no violation of the foregoing and none prevent use of the Property for Buyer's intended use.
  
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:** The Buyer shall have **thirty (30) days** from the Effective Date of this Contract to 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, a copy of such survey shall be furnished to the Seller and the Seller shall have the time to cure such defect as the Contract allows to cure defects of title. Failure to so cure shall be regarded as a default by the Seller.
  
  - C. **DUE DILIGENCE:**
    - (1) Commencing on the Effective Date, Buyer and its engineers, architects, and other agents shall have a period of **thirty (30) 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 purchase of the Property for the Buyer's intended use.
  
    - (2) In the event Buyer determines, in Buyer's 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, upon which the Deposit shall be promptly returned to Buyer and except as otherwise provided herein, neither party shall have any further liability or obligation hereunder.
  
    - (3) 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 and, as long as this Contract has not been terminated, thereafter until Closing. Buyer, as a condition to its exercise of such right of entry, agrees to indemnify the Seller for claims brought against the Seller only to the extent that they are found to result from the sole 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. 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. In addition, this indemnification shall be construed to limit recovery by the indemnified party against the Buyer to only those damages caused by the Buyer's sole negligence, and shall specifically exclude any attorney's fees or costs associated therewith.

(4) Buyer shall use 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:**

A. **CONSIDERATION:** As consideration for: 1) entering into this Contract, and 2) Seller's construction of an improved surface parking area for public use over approximately 25 feet of the northerly portion of City-owned Alachua County Tax Parcel No. 13409-000-000, adjacent to SW 5<sup>th</sup> Avenue, as further described in the agreement attached to this Contract as **EXHIBIT "C"** and made a part hereof, which agreement shall be fully executed and effective no later than the Closing date described in this Contract, Buyer shall:

(1) convey to Seller a portion of Alachua County Tax Parcel No. 13409-000-000 as further described in **EXHIBIT "B"** attached to this Contract and made a part hereof, which conveyance shall have the same Closing date as described in this Contract.

B. **CITY COMMISSION APPROVAL:** This Contract is contingent and not binding on Seller or Buyer until approved by the City Commission of the City of Gainesville, within **fifteen (15) days** of execution of this Contract by Seller. If not approved by the City Commission within that time period, this Contract shall be deemed rejected, any deposit(s) shall be returned to Buyer, and the parties shall be relieved of all obligations under this Contract. Seller agrees that this provision cannot be waived by Buyer or any employee or agent of Buyer.

C. **CLOSING OF COMPANION CONTRACT FOR PURCHASE AND SALE:** This Contract is contingent on the closing of the transfer from Buyer to Seller of the real property described in **EXHIBIT "B"**, which conveyance shall have the same Closing date as described in this Contract. In the event that closing does not occur on the transfer from Buyer to Seller of the real

property described in **EXHIBIT "B"**, this Contract shall terminate, any deposit(s) shall be returned to Buyer, and the parties shall be relieved of all obligations under this Contract.

**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 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.

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 unless otherwise stated herein. If Property is intended to be rented or occupied beyond Closing, the fact and terms thereof and the tenant(s) or occupants shall be disclosed pursuant to Standard E. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to Property from date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have accepted Property in its existing condition as of time of taking occupancy.

**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: (CHECK ONLY ONE):** Buyer \_\_\_ may assign and thereby be released from any further liability under this Contract; \_\_\_ may assign but not be released from liability under this Contract; or X 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:** N/A, vacant land.

**16. RIDERS; ADDENDA; SPECIAL CLAUSES:**

CHECK those riders which are applicable AND are attached to this Contract:

- CONDOMINIUM
- HOMEOWNERS' ASSOCIATION
- LEAD-BASED PAINT
- INSULATION
- "AS IS"
- Other Comprehensive Rider Provisions
- Addenda (Addendum Number 1)

Special Clause(s):

**17. STANDARDS FOR REAL ESTATE TRANSACTIONS ("Standards"):** Buyer and Seller acknowledge receipt of a copy of Standards A through V on the reverse side or attached, which are incorporated as a part of this Contract, except as modified herein.

**18. REAL ESTATE COMMISSION:** Seller and Buyer each represent and warrant to the other that it has not dealt with any broker, salesperson, agent, or finder in connection with any of the transactions contemplated by this Contract, and insofar as each party knows, no broker, salesperson, agent, finder, or other person is entitled to any commission or finder's fee in connection with any of the transactions contemplated by this Contract. Seller and Buyer each agree to indemnify, defend (by counsel reasonably satisfactory to the indemnified party), save, and hold harmless the other from and against any and all losses, claims, damages, liabilities, Fees and Costs, and all other expenses related to, growing out of, or arising from, any claims or demands for any brokerage commissions or finder's fee alleged to be payable because of any act, omission, or statement of the indemnifying party. The terms of this Section shall survive the Closing and any termination of this Contract.

**19. PARTIAL INVALIDITY:** If any term, covenant, condition or provision of this Contract or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Contract, shall not be affected thereby, and all other terms, covenants, conditions and provisions of this Contract shall be valid and be enforced to the fullest extent permitted by law.

**20. NOTICE:** Any and all notices or demands by or from Seller to Buyer, or Buyer to Seller, shall be in writing. They will be served by certified mail. 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, and the issuance of the registry receipt therefore.



**BUYER:**

**CITY OF GAINESVILLE, FLORIDA, a municipal corporation**

By: \_\_\_\_\_  
Anthony Lyons, Interim City Manager

Date: \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Print Name

***APPROVED AS TO FORM AND LEGALITY***

\_\_\_\_\_  
City Attorney  
City of Gainesville

**SELLER(S):**

**SOUTH PARK INVESTMENT GROUP, LLC, a Florida Limited liability company**

\_\_\_\_\_  
By: John L. Fleming, as its Manager

Date: \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Print Name

**DEPOSITS** : Deposits under Paragraph 2(a) received (Checks are subject to clearance):

**Community Title, Escrow Agent**

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

**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, and if title is found defective, notify Seller in writing specifying the defect(s) which render title unmarketable. Seller shall have **thirty (30) days** from receipt of notice to remove the defects, failing which Buyer shall, within **five (5) days** after expiration of the 30-day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) within the time provided. If Seller is unable to timely correct the defects, Buyer shall either waive the defects, or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligations under this Contract. If Seller is to provide the Title Commitment and it is delivered to Buyer less than five (5) days prior to Closing, Buyer may extend Closing so that Buyer shall have up to **five (5) days** from date of receipt to examine same in accordance with this Standard.

**B. SURVEY:** Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachment on the Real Property or that improvements located thereon encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

**C. WOOD DESTROYING ORGANISMS:** N/A – vacant land.

**D. INGRESS AND EGRESS:** N/A.

**E. LEASES:** Seller shall, at least **ninety (90) days** before Closing, furnish to Buyer copies of all written leases and estoppel letters from each tenant specifying the nature and duration of the tenant's occupancy, rental rates, advanced rent and security deposits paid by tenant. If Seller is unable to obtain such letter from each tenant, the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenant to confirm such information. If the terms of the leases differ materially from Seller's representations, Buyer may terminate this Contract by delivering written notice to Seller at least **five (5) days** prior to Closing. Seller shall, at Closing, deliver and assign all original leases to Buyer.

**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, or, if no title insurance, designated by Buyer.

**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 business day. **Time is of the essence in this Contract.**

**I. CLOSING DOCUMENTS:** Buyer shall furnish the deed.

**J. EXPENSES:** Buyer will pay taxes and recording fees on notes, mortgages and financing statements, and recording fees for the deed. Seller will pay taxes on the deed and recording fees for documents needed to cure title defects. Unless otherwise provided by law or rider to this Contract, charges for the following related title services, namely title evidence, title examination, and closing fee (including preparation of closing statement), shall be paid by the party responsible for furnishing the title evidence in accordance with Paragraph 5.

**K. PRORATIONS; CREDITS:** Taxes, assessments, rent, interest, insurance and other expenses of the Property shall be prorated through the day before Closing. Buyer shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing, or occupancy, if occupancy occurs before Closing. Advance rent and security deposits will be credited to Buyer. Escrow deposits held by mortgagee will be credited to Seller. 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. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be agreed upon between the parties; failing which, request shall be made to the County Property Appraiser for an informal assessment taking into account available exemptions. 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:** N/A – vacant land.

**N. RISK OF LOSS:** If the Property is damaged by fire or other casualty before Closing and cost of restoration does not exceed 3% of the assessed valuation of the Property so damaged, cost of restoration shall be an obligation of the Seller and Closing shall proceed pursuant to the terms of this Contract with restoration costs escrowed at Closing. If the cost of restoration exceeds 3% of the assessed valuation of the Property so damaged, Buyer shall either take the Property as is, together with either the 3% or any insurance proceeds payable by virtue of such loss or damage, or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligations under this Contract.

**O. CLOSING PROCEDURE:** The deed shall be recorded upon clearance of funds. If the title agent insures adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow and closing procedure required by this Standard shall be waived. Unless waived as set forth above the following closing procedures shall apply: (1) all closing proceeds shall be held in escrow by the Closing Agent for a period of not more than **five (5) days** after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have **thirty (30) days** from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, all deposits and closing funds shall, upon written demand by Buyer and within **five (5) days** after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

**P. ESCROW:** N/A

**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. FAILURE OF PERFORMANCE:** If Buyer fails to perform this Contract within the time specified, including payment of all deposits, the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be recovered and retained by and for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

**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 or broker 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 marketable title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller, subject only to matters contained in Paragraph 7 and those otherwise accepted by Buyer. Personal property shall, at the request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

**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.

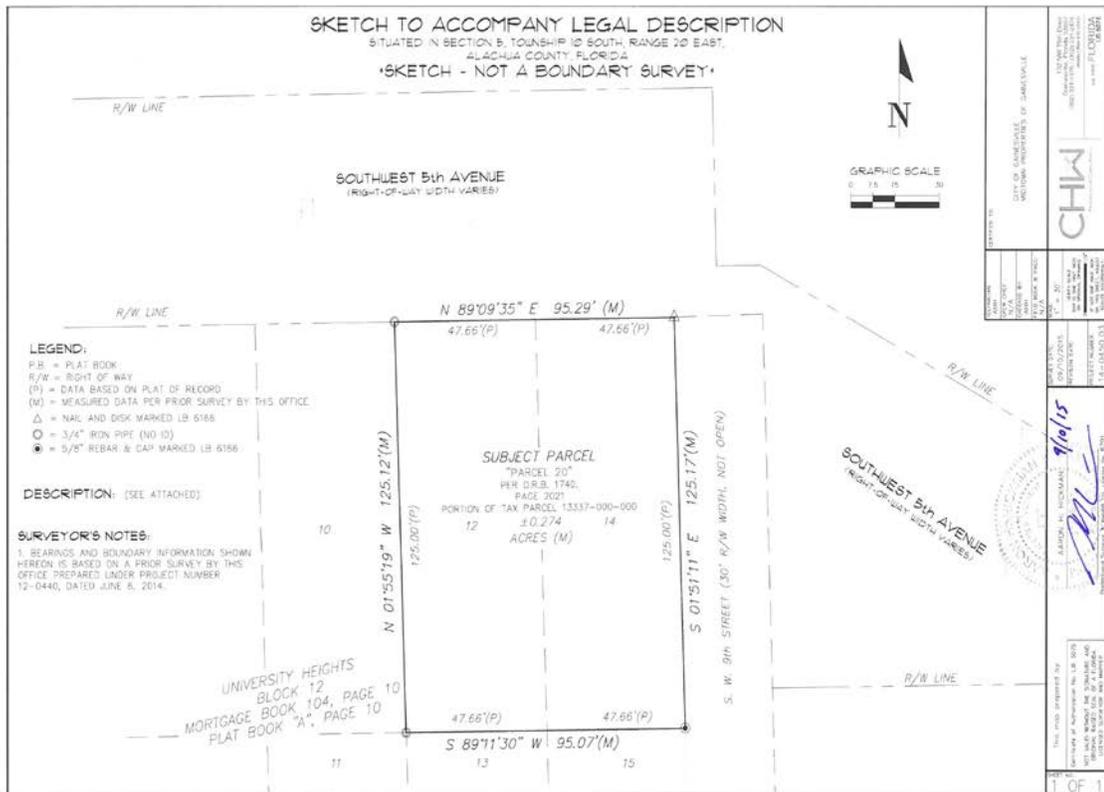
**V. WARRANTY:** Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer.

Buyer Initials: \_\_\_\_\_

Seller Initials: \_\_\_\_\_

**EXHIBIT "A" (SOUTHPARK TO CITY)**

LOTS TWELVE (12) AND FOURTEEN (14), BLOCK TWELVE (12) OF UNIVERSITY HEIGHTS, A SUBDIVISION AS PER PLAT THEREOF RECORDED IN MORTGAGE BOOK 104, PAGE 10, AND PLAT BOOK "A", PAGE 10 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA. (CONTAINING 11,911 SQUARE FEET OR 0.273 ACRES MORE OR LESS)



**EXHIBIT "B" (CITY TO SOUTH PARK)**

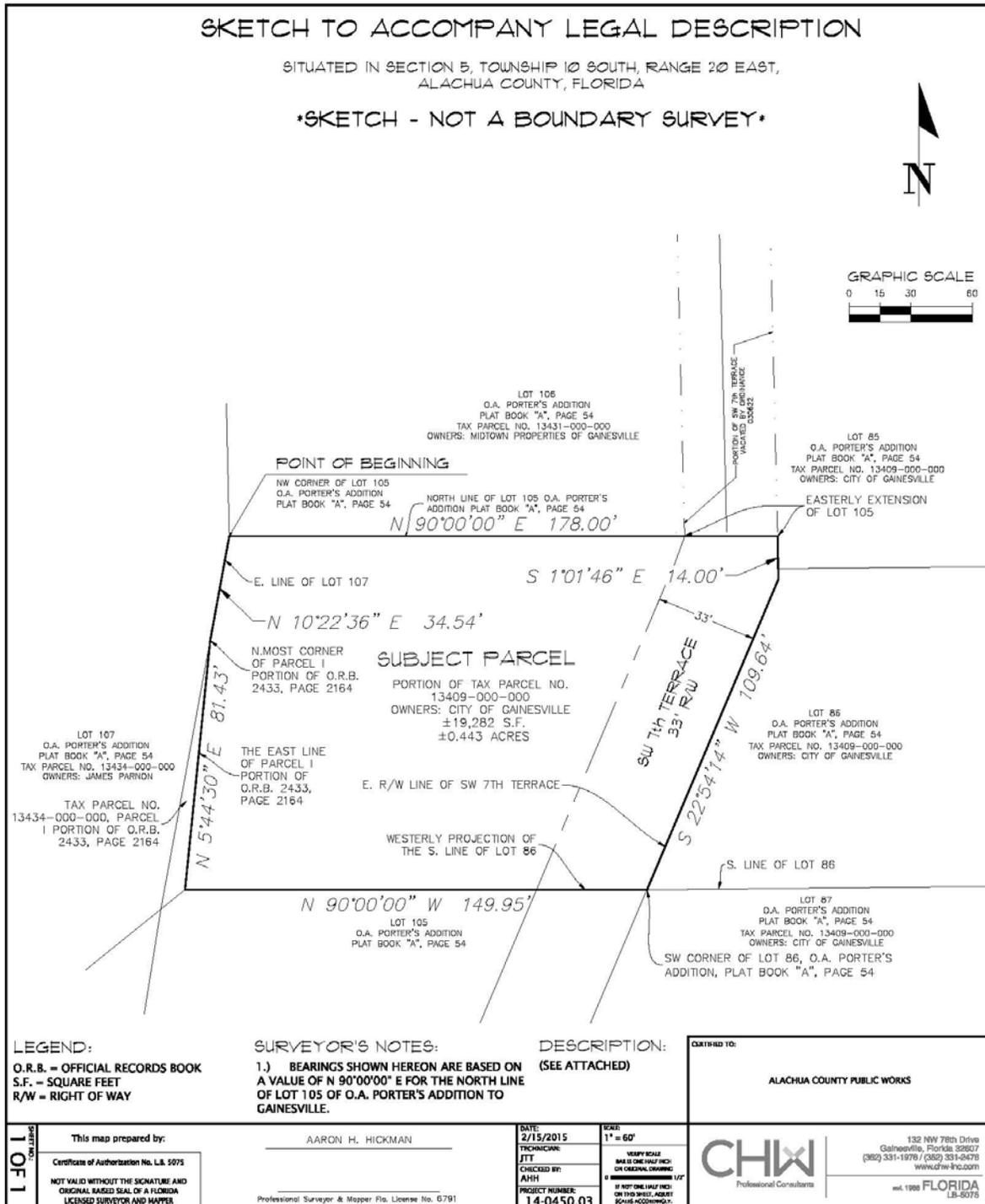
A PARCEL OF LAND BEING A PORTION OF LOT 105 AND SOUTHWEST 7TH TERRACE LYING WITHIN O.A. PORTER'S ADDITION TO GAINESVILLE AS RECORDED IN PLAT BOOK "A", PAGE 54 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, BEING SITUATED IN SECTION 5, TOWNSHIP 10 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID LOT 105; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID LOT 105 AND IT'S EASTERLY EXTENSION THEREOF, A DISTANCE OF 178.00 FEET TO THE EAST RIGHT OF WAY LINE OF SAID SOUTHWEST 7<sup>TH</sup> TERRACE (33-FOOT RIGHT OF WAY); THENCE SOUTH 1°01'46" EAST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 14.00 FEET; THENCE SOUTH 22°54'14" WEST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 109.64 FEET TO THE SOUTHWEST CORNER OF LOT 86 OF SAID PLAT; THENCE DEPARTING SAID EAST RIGHT OF WAY LINE, NORTH 90°00'00" WEST ALONG THE WESTERLY PROJECTION OF THE SOUTH LINE OF SAID LOT 86, A DISTANCE OF 149.95 FEET TO A POINT ON THE EAST LINE OF PARCEL I AS RECORDED IN OFFICIAL RECORDS BOOK 2433, PAGE 2164 OF SAID PUBLIC RECORDS; THENCE NORTH 5°44'30" EAST ALONG SAID EAST LINE, A DISTANCE OF 81.43 FEET TO THE NORTHERN MOST POINT OF SAID PARCEL I, SAID POINT ALSO LYING ON THE EASTERLY LINE OF LOT 107 OF SAID O.A. PORTER'SOUTH ADDITION; THENCE NORTH 10°22'36" EAST ALONG SAID EAST LINE, A DISTANCE OF 34.54 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED LAND CONTAINS 19,282 SQUARE FEET, MORE OR LESS.

**ALL AS SHOWN ON THE MAP  
ATTACHED HEREWITH AND MADE  
A PART HEREOF**

**EXHIBIT "B" (CONTINUED)**



**EXHIBIT "C" (SURFACE PARKING IMPROVEMENT AGREEMENT)**

## SURFACE PARKING IMPROVEMENTS AGREEMENT

**THIS AGREEMENT** (“Agreement”) is entered into on the \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF GAINESVILLE**, a Florida municipal corporation, whose mailing address is Post Office Box 490, Station 58, Gainesville, Florida 32627, (“City”), and **SOUTHPARK INVESTMENT GROUP, LLC**, a Florida limited liability corporation, whose address is 321 SW 13<sup>th</sup> Street, Gainesville, Florida 32601, (“Developer”).

### WITNESSETH

**WHEREAS**, the City and the Developer entered into Contracts for the Purchase and Sale, both dated \_\_\_\_\_, 2016, to effect a land transfer between the City and the Developer for certain real property located in Alachua County, Florida; and

**WHEREAS**, the land transfer involves the City conveying to the Developer a certain portion of Alachua County Tax Parcel No. 13409-000-000, and the Developer conveying to the City a certain portion of Alachua County Tax Parcel No. 13337-000-000, both as further described in the respective Contracts for Purchase and Sale; and

**WHEREAS**, as additional consideration for the described land transfer, the Developer has agreed to construct an improved surface parking area for public use over approximately 25 feet of the northerly portion of City-owned Alachua County Tax Parcel No. 13409-000-000, adjacent to SW 5<sup>th</sup> Avenue; and

**WHEREAS**, the parties wish to set forth their agreement concerning the Developer’s obligation to construct an improved surface parking area in more detail.

**NOW THEREFORE**, in consideration of the mutual covenants as set forth below, the parties agree as follows:

1. Recitals. The recitals above comprise a material part of this Agreement and are hereby incorporated by reference.
2. Effective Date and Term. This Agreement shall become effective on the date the last of the parties executes this Agreement as indicated below, which shall be no later than **May 26, 2016**, and shall remain in effect until the parties have fully performed their obligations as set forth in this Agreement. However, this Agreement is contingent on the closing of both real property transfers between the City and the Developer as described above. In the event that closing does not occur on both real property transfers between the City and the Developer, this Agreement shall terminate and the parties shall be relieved of all obligations under this Agreement.

3. Surface Parking Improvements.

- a. The Developer shall, by no later than December 31, 2016, construct an improved surface parking area and accessory improvements for public use over approximately 25 feet of the northerly portion of City-owned Alachua County Tax Parcel No. 13409-000-000, adjacent to SW 5<sup>th</sup> Avenue, which improvements shall be located according to and in substantial compliance with the depiction shown in **EXHIBIT “1”** attached to this Agreement and made a part hereof.
- b. The Developer, at its sole expense, shall provide all design and engineering services, permitting services and construction services that are required to fully construct and receive all regulatory approvals for the surface parking improvements described in **EXHIBIT “1”**.
- c. The surface parking improvements and all construction plans, permits and other approvals obtained by the Developer shall be owned by the City or assignable to the City at no cost or expense to the City.
- d. The Developer may enter the property described in **EXHIBIT “1”** during normal business hours, and may also make arrangements to enter the property at other times after agreement from the City, in order to comply with the obligations as set forth in this Agreement.
- e. To secure the construction and conveyance of the improved surface parking area and accessory improvements for public use as described herein, the Developer shall no later than 30 days after the effective date of this Agreement provide the City with security in one of the forms specified in Section 30-186 of the City’s Land Development Code, which security shall be in an amount equal to 120 percent of the estimated total cost of construction and conveyance as agreed upon by both the Developer and the City.

4. Representations and Warranties of Developer. The Developer represents and warrants to the City that the following statements are true:

- a. The Developer is a validly existing entity under the laws of the State of Florida, has all requisite power and authority to carry on its business as now conducted, to own or hold property and to enter into and perform the obligations of this Agreement and each instrument to which it is or will be a party, and has consented to service of process in the State of Florida.
- b. Each document to which the Developer is or will be a party has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by, the Developer and neither the execution and delivery nor compliance with the terms and provisions: (i) requires the approval of any other party, except as have been obtained or as are noted herein, or (ii) contravenes any law, judgment, governmental rule, regulation or order binding on the Developer.

- c. Each document to which the Developer is or will be a party constitutes a legal, valid, and binding obligation of the Developer, enforceable against the Developer, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws that affect creditor's rights generally and subject to usual equitable principles if equitable remedies are invoked.
- d. There are no pending or threatened actions before any court or administrative body against the Developer, or against any officer of the Developer, that question the validity of any document contemplated herein or that are likely to materially and adversely affect this Agreement or the financial condition of the Developer.
- e. The Developer is financially capable of carrying out all obligations contemplated by this Agreement.
- f. The Developer shall use its best efforts to perform this Agreement. In addition, the Developer will not violate any laws, ordinances, rules, regulations or orders that are or will be applicable to the construction of the surface parking area improvements.

5. Relationship. This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture between the City and the Developer. The Developer cannot create any obligation or responsibility on behalf of the City or bind the City in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that the other party is not acting as a fiduciary for or an adviser to it in respect of this Agreement or any responsibility or obligation contemplated herein.

6. No Contract Zoning; No Contracting of Police Powers. The City is entering into this Agreement in its proprietary capacity as a purchaser or owner of property. Nothing contained in this Agreement shall be interpreted or construed as an approval, waiver or agreement to approve or waive any development order, development permit, rezoning, comprehensive plan amendment or any other governmental requirement that the City may have jurisdiction over in its regulatory capacity. Nothing contained in this Agreement shall be interpreted or construed as contracting away the exercise of the police powers of the City.

7. Release. No recourse shall be had for any damages or claims based upon any representation, obligations, covenant or agreement in this Agreement against any past, present or future officer, member, legal counsel, employee, director or agent, of the City, either directly or through the City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, legal counsels, employees, directors or agents is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. This section shall survive the termination or expiration of this Agreement.

8. Force Majeure. Delays in any performance due to: fire, flood, earthquake, windstorm, or sinkhole; war, declaration of hostilities, revolt, civil strife, altercation or commotion; strike or labor dispute; epidemic; archaeological excavation; or because of act of God shall be deemed to be events

of Force Majeure and such delays shall be excused in the manner herein provided. If such party is delayed for any of the events of Force Majeure, the date required for actions required shall be extended by the number of calendar days equal to the total number of calendar days, if any, that such party is actually delayed. The party seeking excuse for nonperformance on the basis of Force Majeure shall give written notice to the other parties specifying the cause of the anticipated delay, giving its actual or anticipated duration, and weekly thereafter, if such delay shall be continuing, written notice stating whether the condition continues and giving its actual or then anticipated duration. Each party seeking excuse from nonperformance on the basis of Force Majeure shall use its best efforts to rectify conditions causing a delay and will cooperate with the other party, except for the occurrence of unreasonable additional costs and expenses, to overcome any loss of time that has resulted.

9. Sovereign Immunity. The parties agree that nothing in this Agreement shall be interpreted as a waiver of the City's sovereign immunity, as provided in Section 768.28, Florida Statutes, or otherwise.

10. Third Party Beneficiaries. This Agreement has been entered into for the benefit of the parties and there are no third party beneficiaries.

11. Bankruptcy. The filing by the Developer of a petition for relief under federal bankruptcy laws or any other similar law or statute of the United States, or the entry of an order or decree appointing a receiver of the Developer or its assets, shall not affect the City's rights under this Agreement.

12. Default; Remedy; Attorneys' Fees. There shall be a default if either party fails to comply with any obligation described in this Agreement. If a default occurs, upon giving **fifteen (15) days** written notice of such default, if the default has not been cured within the **fifteen (15) days**, the non-defaulting party may exercise any legal rights and remedies as are allowed at law or in equity to enforce this Agreement, including without limitation, specific performance. In any litigation or other proceeding, including appeals, arising out of this Agreement, including breach, enforcement or interpretation, the prevailing party in such proceeding, shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs and expenses.

13. Modification and Waiver. This Agreement may only be modified or waived in writing signed by all the parties. No course of dealing shall be deemed a waiver of rights or a modification of this Agreement. The failure of any party to exercise any right in this Agreement shall not be considered a waiver of such right. No waiver of a provision of this Agreement shall apply to any other portion of this Agreement. A waiver on one occasion shall not be deemed to be a waiver on other occasions.

14. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, notwithstanding any Florida conflict of law provision to the contrary. 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.

15. Severability. Any provision of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder to be invalid, illegal or unenforceable.

16. Captions. The captions and headings of sections or paragraphs used in this Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.

17. Construction. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the parties. It is recognized that both parties have substantially contributed to the preparation of this Agreement.

18. Entire Agreement; Not a Development Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein. This Agreement, in whole or part, is not intended to be nor shall be construed or interpreted to be a Development Agreement under the terms of the “Florida Local Government Development Agreement Act” in Section 163.3220 et seq., Florida Statutes, or as defined in the Land Development Code, Chapter 30 of the City of Gainesville Code of Ordinances.

19. Successors and Assigns. No parties to this Agreement shall assign or transfer any interest in this Agreement without the prior written consent of the other parties. The parties each bind the others and their respective successors and assigns in all respects to all the terms, conditions, covenants, and provisions of this Agreement.

20. Time. Time is of the essence in this Agreement. In computing time periods of fifteen (15) days or less, Fridays, Saturdays, Sundays and state or national legal holidays shall be excluded. Time periods of more than fifteen (15) days shall be computed based on calendar days. Whenever a notice or performance is to be done on a Saturday or Sunday or on a legal holiday observed by the City, it shall be postponed to the next business day.

21. Notices. Any notices pursuant to this Agreement shall be effective upon receipt and sent by either certified mail, return receipt requested, overnight courier service or delivered in person to the following addresses:

To the City:                      Attention: City Manager  
   City of Gainesville  
   P.O. Box 490, MS 6  
   Gainesville, Florida 32627

With a copy to:                      Director of Public Works

City of Gainesville  
P.O. Box 490, MS 58  
Gainesville, Florida 32627

To the Developer:     SOUTHPARK INVESTMENT GROUP, LLC  
321 SW 13<sup>th</sup> Street  
Gainesville, Florida 32601

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by duly authorized officials on the dates written below.

WITNESSES:

**CITY OF GAINESVILLE**

Sign: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Anthony Lyons  
Interim City Manager

Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ALACHUA

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by Anthony Lyons, Interim City Manager of the City of Gainesville. He personally appeared before me and is: (check one of the below)

\_\_\_\_\_ personally known to me, or  
\_\_\_\_\_ produced the following type of identification:  
\_\_\_\_\_

Executed and sealed by me on \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_  
My Commission expires: \_\_/\_\_/\_\_

**WITNESSES:**

**DEVELOPER**

Sign: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Sign: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by \_\_\_\_\_, as \_\_\_\_\_ for and on behalf of \_\_\_\_\_ . He/she personally appeared before me and is: (check one of the below)  
\_\_\_\_\_ personally known to me, or  
\_\_\_\_\_ produced the following type of identification:  
\_\_\_\_\_

Executed and sealed by me on \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission expires: \_\_/\_\_/\_\_

**EXHIBIT "1"**

