

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License Agreement") is made this ____ day of _____, 2020, between the City of Gainesville, a municipal corporation of the State of Florida ("City"), and The District Board of Trustees of Santa Fe College, Florida, a body corporate of the State of Florida ("Licensee").

WITNESSETH:

WHEREAS, the Licensee desires to obtain a license from the City for the purpose of constructing, maintaining, and using a certain right-of-way for an open-air plaza that is accessible to pedestrians and non-motorized vehicles, as more fully set forth herein; and

WHEREAS, the City is willing to grant this License to Licensee under the terms and conditions as set forth herein.

NOW THEREFOR, in consideration of the premises and the mutual covenants and conditions contained in this License Agreement, the parties agree as follows:

1. **License.** The City hereby grants to the Licensee, and the Licensee hereby accepts from the City, a license to construct, maintain, and use a certain right-of-way, as more fully described in **Exhibit A** attached to this License Agreement and hereinafter referred to as the "Property," for an open air plaza as more fully described in paragraphs 5 and 6 below.

2. **License Term.** The term of this license will commence on the License Commencement Date as defined in **Exhibit B** attached to this License Agreement. The City and Licensee (via its President) will execute a memorandum in the form attached as **Exhibit B** to reflect the date on which the term begins and ends (the beginning date is the License Commencement Date and shall coincide with the demolition of the building located at 530 West University Avenue, Gainesville, Florida 32607). Licensee agrees to provide to the City written notice at least 30 days in advance of the date demolition is scheduled for said building; the parties agree that such notice may be provided prior to execution of this License Agreement. In no event shall this date be later than January 1, 2021. The license term shall then extend for 40 years except as provided in paragraph 3. This License Agreement is expressly contingent upon Licensee's construction and completion of a three-story building, to be known as Santa Fe College Blount Hall or such other name as determined by Licensee's board of trustees, located on the lot immediately east of the Property, on or before January 1, 2023. Unless otherwise terminated as provided in this License Agreement, upon the expiration of the 40-year term, this License Agreement shall be automatically renewed from year to year unless either party serves notice of termination to the other party at least 90 days prior to the end of the license year. If

major capital improvements (not including routine maintenance) are needed on the Property that require the expenditure of state funds, then upon approval by the City Commission, the term of this License Agreement may be extended at that time for an additional forty years.

3. **Right of Cancellation.** In addition to the City's right to terminate this License Agreement in the event of default by Licensee, the City reserves the right to immediately terminate this License Agreement after the passage of 5 years from the License Commencement Date, if the City Commission finds, after holding an advertised public hearing, that the Property is required for automobile or other motorized traffic circulation. In this event the City shall compensate Licensee in an amount agreed to by the City Manager or designee and Licensee, provided the Licensee is not otherwise in default of this License Agreement. In reaching the amount, the parties shall consider the actual value of the improvements on the Property. However, between the sixth year and the fifteenth year from the License Commencement Date, the value shall be amortized on a declining balance method. After the passage of 15 years, no compensation shall be due the Licensee. In the event the City and Licensee cannot agree on an amount, the matter shall be decided by an arbitrator selected by both parties whose decision shall be final.
4. **Consideration.** As additional consideration of this License Agreement, the Licensee agrees to pay the City as monetary compensation for this license the sum of One (\$1.00) Dollar per year. The City hereby acknowledges receipt of forty dollars (\$40.00) representing the total monetary compensation due under this License Agreement. The Licensee further agrees to pay any taxes levied on the Property because of the use permitted under this License Agreement.
5. **Use.** The Licensee agrees that it will use the Property only for the purpose of constructing, maintaining, and operating an open-air plaza and associated stormwater basins as approved by the City as provided in paragraph 6. The plaza will be open and accessible to the general public and non-motorized vehicles except for: 1) college special events, as long as reasonable pedestrian and non-motorized vehicular access is maintained; and 2) special maintenance and construction purposes. The Licensee further agrees that it will not suffer or permit the premises or any part thereof to be used for any other purpose.
6. **Alterations.** It is agreed that Licensee shall alter the Property by converting the paved street and sidewalks to an open-air plaza and associated stormwater basins. Licensee will install and maintain utility infrastructure, sidewalks, curbs, hardscape, trellis, lighting, outdoor furniture, landscaping, and bike racks on the Property. Licensee agrees to submit plans to the City Manager or designee for approval prior to any construction on the Property. Any modifications or changes to the approved plans shall also be subject to approval by the City Manager or designee. It is expressly agreed that all appurtenances presently or hereafter located in and upon the Property, whether affixed thereto or not, are and shall become and remain the property of the City.
7. **Maintenance.** The Licensee shall at all times keep the Property free of trash and

debris and in neat appearance. Licensee agrees, if notified by the City Manager or designee that any part of the Property is unsatisfactory in appearance, to remedy the condition within 24 hours.

8. **No Illegal Use.** The Licensee agrees not to use, nor suffer or permit any person to use in any manner whatsoever, the Property or any part thereof for any illegal purpose, or for any purpose in violation of any federal, state, or municipal law, ordinance, rule or regulation of the City now in effect or hereafter enacted or adopted.
9. **No Interest in Real Property.** It is expressly understood and agreed that no real or personal property is leased to the Licensee; that it is a licensee not a lessee; that the Licensee's right to occupy the Property and to operate the license hereby granted shall continue only so long as the Licensee shall comply strictly and promptly with each and all of the undertakings, provisions, covenants, agreements, stipulations, and conditions contained herein. The City retains the public right-of-way over, under, across, and through the Property in order to construct, operate, and maintain public utilities. The City agrees to place the Property in the same condition that existed prior to any construction or maintenance of utilities.
10. **Insurance.** The Licensee shall procure at its own cost and expense and keep in full force and effect such liability insurance as will protect the Licensee, the City, and their officers, agents, and employees from any claims for damages to Property and for personal injuries, including death, which may arise on said Property. The following minimum limits of liability shall apply:

\$1,000,000 per occurrence - bodily injury

\$1,000,000 per occurrence - property damage

The Licensee agrees to carry general liability insurance provided by the Licensee via its self-insurance arrangement with the Florida College System Risk Management Consortium with a liability limit of Two Hundred Thousand (\$200,000) for the claims or judgments of any one person and a liability limit of Three Hundred Thousand (\$300,000) for all claims or judgments arising out of the same incident or occurrence that is a result of a negligent act or omission of the Licensee, its officers, employees, and agents in connection with and pursuant to this License Agreement in accordance with Section 768.28, Florida Statutes.

Each insurance policy shall contain a 30-day cancellation clause. Certificates of Insurance in the above minimum amounts and coverages shall be furnished the City, naming the City of Gainesville as an additional insured as respects this License Agreement.

11. **Indemnification.** Each party agrees to indemnify and hold harmless the other party and its officers, trustees, and employees from any liabilities, damages, losses, costs, penalties, fines, judgments, expenses, or charges of any kind suffered, imposed, assessed, or incurred to the extent caused by the negligence, recklessness, or

intentional wrongful act or omission of the indemnifying party and its officers, trustees, and employees arising out of the operation of this License Agreement. This responsibility shall not be limited to the insurance coverage herein provided for.

Notwithstanding the foregoing, any indemnity and hold harmless provided herein shall be limited to and subject to the extent and limitation of Chapter 768.28, Florida Statutes, \$200,000 per person, \$300,000 per occurrence, and the above provision shall in no way act as a waiver of either party's sovereign immunity beyond that provided in Section 768.28, Florida Statutes, or as a waiver of any other defense that either party may have to such claims.

12. **Assignment.** The Licensee is not permitted to assign this License Agreement to any other person or party without prior written consent from the City. If the Licensee shall assign, transfer, convey, or otherwise dispose of the same to any other person or party, the City reserves the right to declare this license terminated.
13. **Strict Compliance and Default.** Failure of the Licensee to strictly comply with its obligations under this License Agreement shall constitute default. In the event of default, the City shall provide notice to Licensee of the default and allow the Licensee 30 days to cure the default. Failure of the Licensee to cure the default, or to begin a diligent effort to cure in the event the default cannot be reasonably cured within 30 days, shall be cause for immediate termination of this License Agreement without further notice to the Licensee.
14. **No Waiver or Breach.** City's failure on one occasion to demand Licensee's strict observance of Licensee's obligations under this License Agreement will not be construed as a waiver of the City's right to demand strict observance of Licensee's obligations on any subsequent occasion.
15. **Notice.** Any notice required under the terms of this License Agreement must be in writing and must be sent by certified mail to the address of the party to whom the notice is to be given. Addresses of the parties are as follows:

City: City Manager City of Gainesville PO Box 490 Gainesville, FL 32602	Licensee: Santa Fe College Office of the President 3000 NW 83 rd Street/Admin Bldg. Gainesville, FL 32606
Copy: City Attorney City of Gainesville PO Box 1110 Gainesville, FL 32602	Copy: Santa Fe College General Counsel 3000 NW 83 rd Street/Admin Bldg. Gainesville, FL 32606
16. **Recording.** This License Agreement shall be recorded in the public records of Alachua County, Florida, at the expense of the Licensee.

17. **Sovereign Immunity.** Nothing in this License Agreement shall be interpreted as a waiver of either the City's or the Licensee's sovereign immunity as may be granted under Section 768.28, Florida Statutes.
18. **Non-Discrimination.** The parties agree not to discriminate against any person on grounds of race, ethnicity, national origin, color, religion, age, disability, sex, pregnancy status, gender identity, sexual orientation, marital status, genetic information, political opinions or affiliations, veteran status, or other legally protected classes under the laws of the State of Florida or the federal government.
19. **No Third-Party Beneficiary.** This License Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.
20. **Assignment.** Neither party may assign or transfer any of its rights, duties, or obligations under this License Agreement, in whole or in part, without the prior written consent of the other party. This License Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.
21. **Governing Law.** This License Agreement shall be governed and construed in accordance with the laws of the State of Florida.
22. **Venue.** The venue of any dispute arising hereunder shall be Alachua County, Florida.
23. **Entire Agreement.** This License Agreement contains the entire agreement of the parties hereto regarding the use of the Property and no representations, inducements, promises, or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect.
24. **Force Majeure.** Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this License Agreement due directly or indirectly from acts of God, accidents, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, terrorism, strikes, or labor disputes.
25. **Authorized Signatories.** Each signatory to this License Agreement represents and warrants that they possess all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf they are signing.

IN WITNESS WHEREOF, the parties to this License Agreement have set their hands and seals on the day and year first above written.

WITNESSES AS TO LICENSEE:

**THE DISTRICT BOARD OF TRUSTEES OF
SANTA FE COLLEGE, FLORIDA (LICENSEE)**

By:

By: G. W. Blake Fletcher

Title: Chair

By:

Santa Fe College

Approved by Vice President

Approved as to Funds

Approved as to Form

Approved as to Insurance

WITNESSES AS TO CITY:

CITY OF GAINESVILLE, FLORIDA

By:

By:

Title:

By:

Approved as to Form and Legality:

By:

Title:

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was sworn to and subscribed before me on _____, 2020, by _____ as _____ of The District Board of Trustees of Santa Fe College, Florida. He [] is personally known to me or [] has produced _____ as identification.

Notary Public, State and County aforesaid

(Notary seal)

Exhibit A**Legal Description**

COMMENCE AT THE SW CORNER OF LOT 11 OF A REPLAT OF BLOCK 28 OF BRUSH ADDITION AS PER PLAT RECORDED IN PLAT BOOK A PAGE 71 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, AND RUN N00°09'55"E ALONG THE WEST LINE OF SAID LOT, 15.00 FEET TO THE POINT OF BEGINNING; THENCE RUN WEST ALONG THE NORTH RIGHT OF WAY OF WEST UNIVERSITY AVENUE, 67.50 FEET TO A POINT LYING 20.00 FEET EAST OF THE CENTERLINE OF GRANTOR'S MAIN TRACK; THENCE RUN N00°08'30"W PARALLEL TO SAID CENTERLINE, 217.68 FEET; THENCE RUN N89°51'30"E, 53.05 FEET TO A POINT 100 FEET EAST OF THE WEST LINE OF SAID BRUSH ADDITION (BEING THE WEST RIGHT OF WAY LINE OF GRANTOR); THENCE RUN S00°23'48"W PARALLEL TO SAID WEST LINE 72.83 FEET; THENCE RUN EAST 14.90 FEET TO THE WEST LINE OF SAID LOT 11 OF A REPLAT OF BLOCK 28 OF BRUSH ADDITION; THENCE RUN S00°09'55"W ALONG SAID WEST LINE 145.00 FEET TO THE POINT OF BEGINNING, BEING AND LYING IN THE NE 1/4 OF SECTION 5, TOWNSHIP 10 SOUTH, RANGE 20 EAST, GAINESVILLE, ALACHUA COUNTY, FLORIDA, CONTAINING 0.31 ACRES ±

Exhibit B**Memorandum of License Commencement Date**

The undersigned are City and Licensee, respectively, in that certain License, dated _____ 2020.

The purpose of this memorandum is to establish the License Commencement Date as _____ and to give notice of the term to all whom it may concern.

The term of the License begins on _____ at 12:01 a.m. and ends _____ at 11:59 p.m., unless sooner terminated as provided in the License.

Executed this _____ day of _____ 20____.

WITNESSES AS TO LICENSEE:**THE DISTRICT BOARD OF TRUSTEES OF
SANTA FE COLLEGE, FLORIDA (LICENSEE)**

By:

By: Paul Broadie II

Title: President, Santa Fe College

By:

WITNESSES AS TO CITY:**CITY OF GAINESVILLE, FLORIDA**

By:

By:

Title:

By:

Approved as to Form and Legality:

By:

Title: