City of Flowery Branch
City Council Meeting
Thursday, February 16, 2023, 6:00 PM
City of Flowery Branch City Hall
5410 West Pine Street, Flowery Branch, GA 30542

CALL WORK SESSION TO ORDER:

PLEDGE OF ALLEGIANCE:

ADOPTION OF AGENDA:

PUBLIC HEARING:

- A Public Hearing to consider a request submitted by Mr. Morgan Hudgens to rezone a .75 +/- acre tract of land known as 5248 Gainesville Street from Residential, Detached Single Family, Low Density District (R-1) to Residential Multi-Family (R-3) .
  Application.pdf
  Rezoning Staff Report.pdf
  Rezoning Ordinance #689.pdf

NEW BUSINESS -WORK SESSION:

- Consider Resolution 23-004 for Purchasing Policy
  Executive Summary - Purchasing Manual Update.pdf
  Flowery Branch Purchasing Policy - Final 2-9-23.pdf

DEPARTMENT REPORTS: - a. City Manager Report
b. City Clerk Report
c. Community Relations Report
d. Finance Department Report
e. Planning Department Report
f. Police Department Report
g. Public Works & Utilities Report
h. Attorney Report
i. Council Report

ADJOURNMENT WORK SESSION:

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

PUBLIC COMMENTS: - Please limit to two minutes

CONSENT AGENDA:

- Consider January 2023 Per Diem for Mayor Asbridge
  Mayor Per Diem January 2023.pdf
- Consider February 2, 2023 City Council Meeting Minutes
  Unofficial February 2, 2023 City Council Meeting Minutes.pdf

NEW BUSINESS - VOTING SESSION:

- Consider Second Amendment to FB Main Street, A Master Condominium Shopping Center Lease Agreement with El Sabor Costeno Taqueria, LLC.
  Executive Summary Second Amendment to Lease Agreement with El Sabor Costeno, LLC..pdf
  Second Amendment El Sabor Costeno, LLC Lease Agreement.pdf
  El Sabor Costeno, LLC Lease Agreement.pdf
  10.6.2022 First Amendment El Sabor Costeno Taqueria, LLC.pdf

EXECUTIVE SESSION:

ADJOURNMENT:

If you have a disability or impairment and need special assistance please contact the City Clerk prior to the meeting at 770-967-6371 - Meeting agenda is subject to change

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: A Public Hearing to consider a request submitted by Mr. Morgan Hudgens to rezone a .75 +/- acre tract of land known as 5248 Gainesville Street from Residential, Detached Single Family, Low Density District (R-1) to Residential Multi-Family (R-3) .

COUNCIL MEETING DATE: February 16, 2023

HISTORY:

FACTS AND ISSUES:
The applicant wishes to rezone to R-3 in order to subdivide the property and construct one new single family detached dwelling. The current home shall remain.

Schedule:
Public Hearing on February 16
First Vote on March 2
Second Vote on March 16

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:
No action at this time

SAMPLE MOTION:
No motion at this time.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Shelia Cooper

ATTACHMENTS

- Application.pdf
- Rezoning Staff Report.pdf
- Rezoning Ordinance #689.pdf

Flowery Branch

REZONING APPLICATION

Date: 12-15-2022

Address of Request:

5248 Gainesville St., Flowery Branch

Tax Map # 08112 027034 Current Zoning: R-1

Is this site located within the boundaries of the historic district? No

Currently a conforming use? Yes

Any conditions of zoning, CUP's, etc.? No

Applicant Information

Name: Morgan Hudgens

Address: 420 S Hill St., Buford, GA 30518

E-mail address: morganh@trinityoutdoor.com

Phone number: 770-652-8808

Signature:

Notary: Lor Del Rio

Flowery Branch

Property owner information (if different than the applicant)

Property owner (please print): Same

Signature of property owner:

Notary: Lor Del Rio

Property Information

Tax Map Number: 08112 027034

Current Zoning: R-1 Total Acres: .75

Is this property located within the city-limits of Flowery Branch? Yes

Proposed City of Flowery Branch Zoning: R-3 and subdivide into 2 lots

Current Use: Single family Residential

Please review the Flowery Branch Code of Ordinances, Appendix C, "Zoning Ordinance", Article 34, for complete requirements.

Please provide the following at time of submittal in (one hard copy and digitally):

- Legal description
- Current survey of property

- Site plan shall meet the requirements of the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.5
- Development statistics per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.6
- Analysis requirements per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.7
- Detailed description of request
- Conflict of interest disclosure (attached)
- Disclosure of campaign contributions (attached)
- Names and addresses of adjoining property owners
- Reasons for requesting rezoning
- Signed statement authorizing City of Flowery Branch staff and/or City Council to inspect the subject property

Conflict of Interest Disclosure

Identify all members of the City Council of the City of Flowery Branch and Employees of the City of Flowery Branch Community Development Department who

Have a property interest in the real property affected by this request

N/A

Have a financial interest (direct ownership interest) of the total assets or capital stock of a business entity where such ownership interest is more than 10% in any business entity which has a property interest in the real property affected by this request

N/A

Have a member of the family (spouse, mother, father, brother, sister, son or daughter) having a property financial interest as herein defined, in the real property affected by this request

Hunter Hudgens - daughter

Flowery Branch

Disclosure of Campaign Contributions

List below the names of local government officials of the City of Flowery Branch to whom campaign contributions were made, within two (2) years immediately preceding the filing of this application, which campaign contributions total $250.00 or more or to whom gifts were made having a total value of $250.00 or more.

Elected Officials Name	Amount of Description of Gift
N/A	

CITY STAFF ONLY

Application Received By: ____________________

Date: ____________ Total Fee: ____________________

Description of Request

My daughter and I own the house and parcel at the subject address. The house sits way off to one side of the parcel. We would like to subdivide the parcel into two, and build another house on the newly created vacant parcel. To do this would require a rezoning from R-1 to R-3 to meet the density and setback requirements.

By this signed statement, I do hereby grant authorization to the City of Flowery Branch Staff, and/or City Counsel to inspect the subject property.

Morgan Hudgens

Return to:
Kim and Bagwell, LLC
311 Green Street, Suite 409
Gainesville, GA 30501
#4941.01

STATE OF GEORGIA,
COUNTY OF HALL

LIMITED WARRANTY DEED
Joint Tenancy With Rights of Survivorship

This INDENTURE, made this 6th day of **December, 2018**, between **Thomas O'Donnell and Linda O'Donnell**, of the State of Georgia and County of Hall of the first part, and **Russel Morgan Hudgens and Heather Ann Hudgens, as Joint Tenants with the Right of Survivorship**, of the State of Georgia and County of Hall of the second part;

WITNESSETH:

WITNESSETH: That the said Party(ies) of the first part, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable consideration, in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said parties of the second part, not as tenants in common, but as joint tenants with full rights of survivorship, for and during their joint lives, and upon the death of either of them, then to the survivor of them, in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor, the following described property:

All that tract or parcel of land lying and being in GMD 1270, City of Flowery Branch, Hall County, Georgia, being shown and delineated on Plat of Survey prepared by Robert T. Black, GRLS, for Rondal W. Couch and Jenny Couch, dated September 19, 1983, recorded in Plat Book 92, Page 231, Hall County, Georgia records, to which plat reference is made for a more detailed description.

Said property having a Tax Parcel Id# 08112 027034 and being known as 5248 Gainesville Street, Flowery Branch, GA 30542 according to the present system of numbering properties in Hall County, Georgia.

TO HAVE AND TO HOLD said Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever IN FEE SIMPLE.

AND THE SAID Grantor shall warrant and forever defend the right and title to said Property unto the Grantee against the lawful claims of all persons claiming by, through or under Grantor but not otherwise.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Limited Warranty Deed the day and year first above written.
Signed, sealed and delivered
in the presence of:

Thomas O'Donnell by
Linda O'Donnell as attorney of Fact

Unofficial Witness

Thomas O'Donnell by Linda O'Donnell as Attorney in Fact

Notary Public

Samuel R Bagwell
Notary Public
Forsyth County, Georgia
My Commission Expires October 11, 2021

Linda O'Donnell

Return to:
Kim and Bagwell, LLC
311 Green Street, Suite 409
Gainesville, GA 30501
#4941.01

STATE OF GEORGIA,
COUNTY OF HALL

LIMITED WARRANTY DEED
Joint Tenancy With Rights of Survivorship

This INDENTURE, made this 6th day of **December, 2018**, between **Thomas O'Donnell and Linda O'Donnell**, of the State of Georgia and County of Hall of the first part, and **Russel Morgan Hudgens and Heather Ann Hudgens, as Joint Tenants with the Right of Survivorship**, of the State of Georgia and County of Hall of the second part;

WITNESSETH:

WITNESSETH: That the said Party(ies) of the first part, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable consideration, in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said parties of the second part, not as tenants in common, but as joint tenants with full rights of survivorship, for and during their joint lives, and upon the death of either of them, then to the survivor of them, in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor, the following described property:

All that tract or parcel of land lying and being in GMD 1270, City of Flowery Branch, Hall County, Georgia, being shown and delineated on Plat of Survey prepared by Robert T. Black, GRLS, for Rondal W. Couch and Jenny Couch, dated September 19, 1983, recorded in Plat Book 92, Page 231, Hall County, Georgia records, to which plat reference is made for a more detailed description.

Said property having a Tax Parcel Id# 08112 027034 and being known as 5248 Gainesville Street, Flowery Branch, GA 30542 according to the present system of numbering properties in Hall County, Georgia.

TO HAVE AND TO HOLD said Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever IN FEE SIMPLE.

AND THE SAID Grantor shall warrant and forever defend the right and title to said Property unto the Grantee against the lawful claims of all persons claiming by, through or under Grantor but not otherwise.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Limited Warranty Deed the day and year first above written.
Signed, sealed and delivered
in the presence of:

Thomas O'Donnell by Linda O'Donnell as attorney of Fact

Unofficial Witness

Thomas O'Donnell by Linda O'Donnell as Attorney in Fact

Notary Public

Samuel R Bagwell
My Commission Expires
Notary Public
October 11, 2021
Forsyth County, Georgia

Linda O'Donnell

THIS BLOCK RESERVED FOR THE CLERK OF THE SUPERIOR COURT

GENERAL/SITE NOTES:

1) OWNER: RUSSELL MORGAN HUDGENS
   6711 SUMERCREST DRIVE
   BUFORD, GA 30518
2) TAX PARCEL # 08112 027034
3) DEED BOOK 8196, PAGE 438.
   PLAT BOOK 92, PAGE 231.
4) THIS SURVEY WAS MADE WITHOUT THE BENEFIT OF CURRENT TITLE COMMITMENT. EASEMENTS AND ENCUMBRANCES MAY EXIST WHICH BENEFIT OR BURDEN THIS PROPERTY. MATTERS OF TITLE ARE EXCEPTED.
5) SITE ELEVATIONS BASED ON NAVD 88 BY OBTAINED BY MEANS OF LOCAL GPS NETWORK.
6) ZONING INFORMATION TAKEN FROM THE CITY OF FLOWERY BRANCH ZONING MAP.

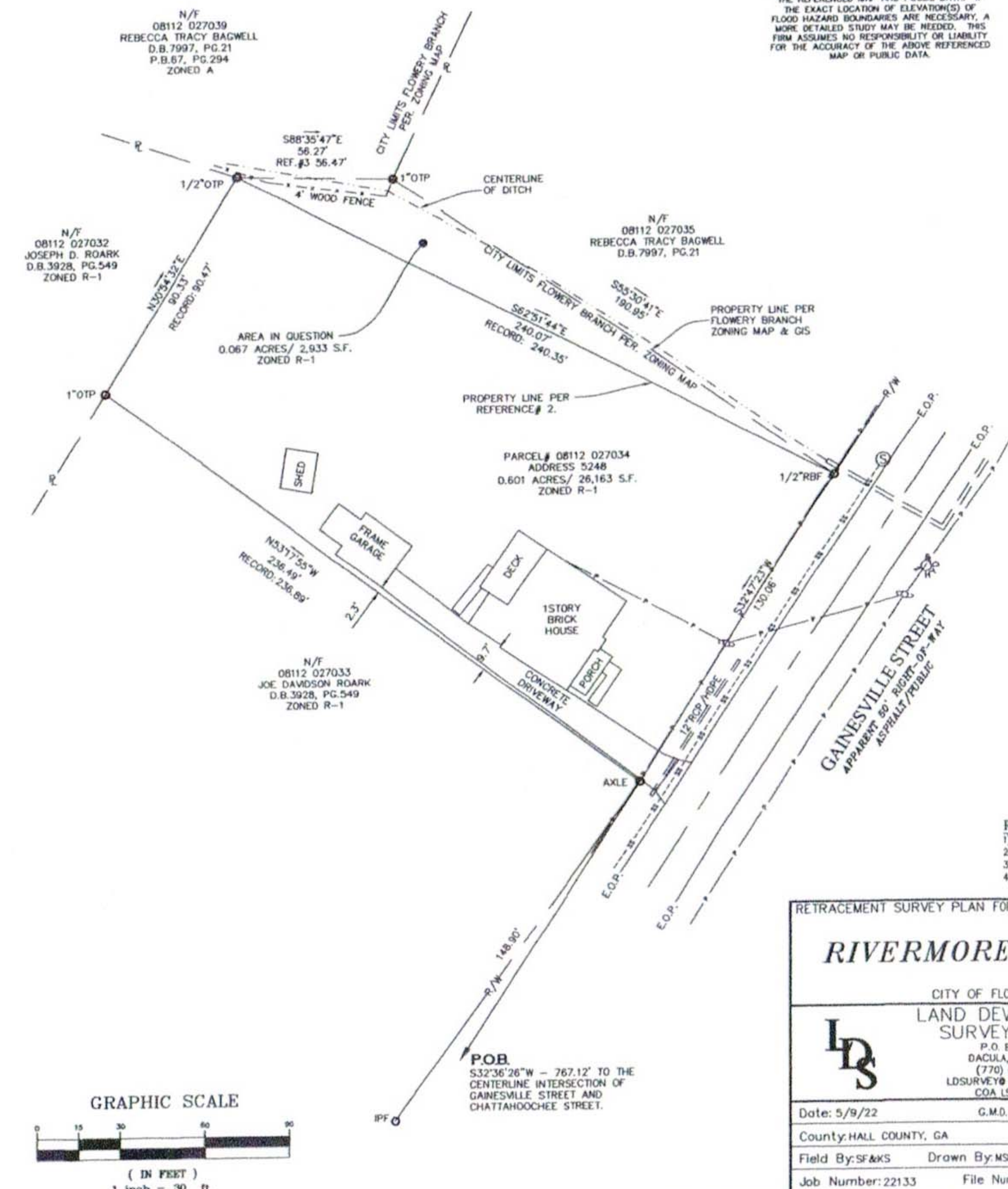
FLOOD HAZARD NOTE

BY GRAPHICAL PLOTTING ONLY, NO PORTION OF THE SURVEYED AREA LIES WITHIN A 100 YEAR FLOOD HAZARD AREA PER FIRM PANEL 13139C0283G, APRIL 4, 2018.

THIS OPINION IS NOT A CERTIFICATION OF FLOOD HAZARD STATUS, BUT IS A INTERPRETATION OF THE REFERENCED MAP AND PUBLIC DATA. IF THE EXACT LOCATION OF ELEVATION(S) OF FLOOD HAZARD BOUNDARIES ARE NECESSARY, A MORE DETAILED STUDY MAY BE NEEDED. THIS FIRM ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE ACCURACY OF THE ABOVE REFERENCED MAP OR PUBLIC DATA.

LEGEND

IPF	IRON PIN FOUND
IPS	1/2" REBAR PIN SET
LL	LAND LOT
LLL	LAND LOT LINE
	PROPERTY LINE
	CENTERLINE
	BUILDING LINE
R/W	RIGHT-OF-WAY
SSE	SANITARY SEWER EASEMENT
DE	DRAINAGE EASEMENT
MH	MANHOLE
CB	CATCH BASIN
JB	JUNCTION BOX
HW	HEADWALL
DI	DROP INLET
PP	POWER/UTILITY POLE
FH	FIRE HYDRANT
IE	INVERT ELEVATION
FFE	FINISHED FLOOR ELEVATION
BOC	BACK OF CURB
EP	EDGE OF PAVEMENT
—S—	SANITARY SEWER LINE/PIPE
	STORM SEWER LINE/PIPE
	FENCE LINE
	FLOOD HAZARD ZONE LINE
N/F	NOW OR FORMERLY



GRID (GA WEST)
N

EQUIPMENT USED:

A TRIMBLE S6 ROBOTIC TOTAL STATION & A CHAMPION TKO GNSS ROVER, CONNECTED TO THE eGPS GNSS REAL TIME NETWORK WAS USED TO OBTAIN THE LINEAR & ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.

FIELD CLOSURE STATEMENT:

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 22,730 & AN ANGULAR ERROR OF 06" SECOND PER ANGLE POINT & WAS ADJUSTED USING LEAST SQUARES.

THE FIELD SURVEY WAS COMPLETED ON 5/9/22.

PLAT CLOSURE STATEMENT:

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE & IS ACCURATE WITHIN ONE FOOT IN 278,780 FEET, AND CONTAINS A TOTAL OF 0.601 ACRES.

RETRACEMENT SURVEY SURVEYORS CERTIFICATION

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

INFORMATION REGARDING THE REPUTED PRESENCE, SIZE, CHARACTER AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING. THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS AND HIS CONTRACTORS SHALL HEREBY DISTINCTLY UNDERSTAND THAT THE SURVEYOR IS NOT RESPONSIBLE FOR THE CORRECTNESS OR SUFFICIENCY OF THIS INFORMATION.

THE TERM "CERTIFICATION" OR TO "CERTIFY" RELATING TO LAND SURVEYING SERVICES SHALL MEAN A SIGNED STATEMENT BASED UPON FACTS AND KNOWLEDGE KNOWN TO THE REGISTRANT AND IS NOT A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED.

REFERENCES

1) DEED BOOK 8196, PAGES 438.
2) PLAT BOOK 92, PAGE 231.
3) PLAT BOOK 67, PAGE 294.
4) OTHER'S AS DENOTED ON PLAT.

RETRACEMENT SURVEY PLAN FOR::

RIVERMORE PARTNERS

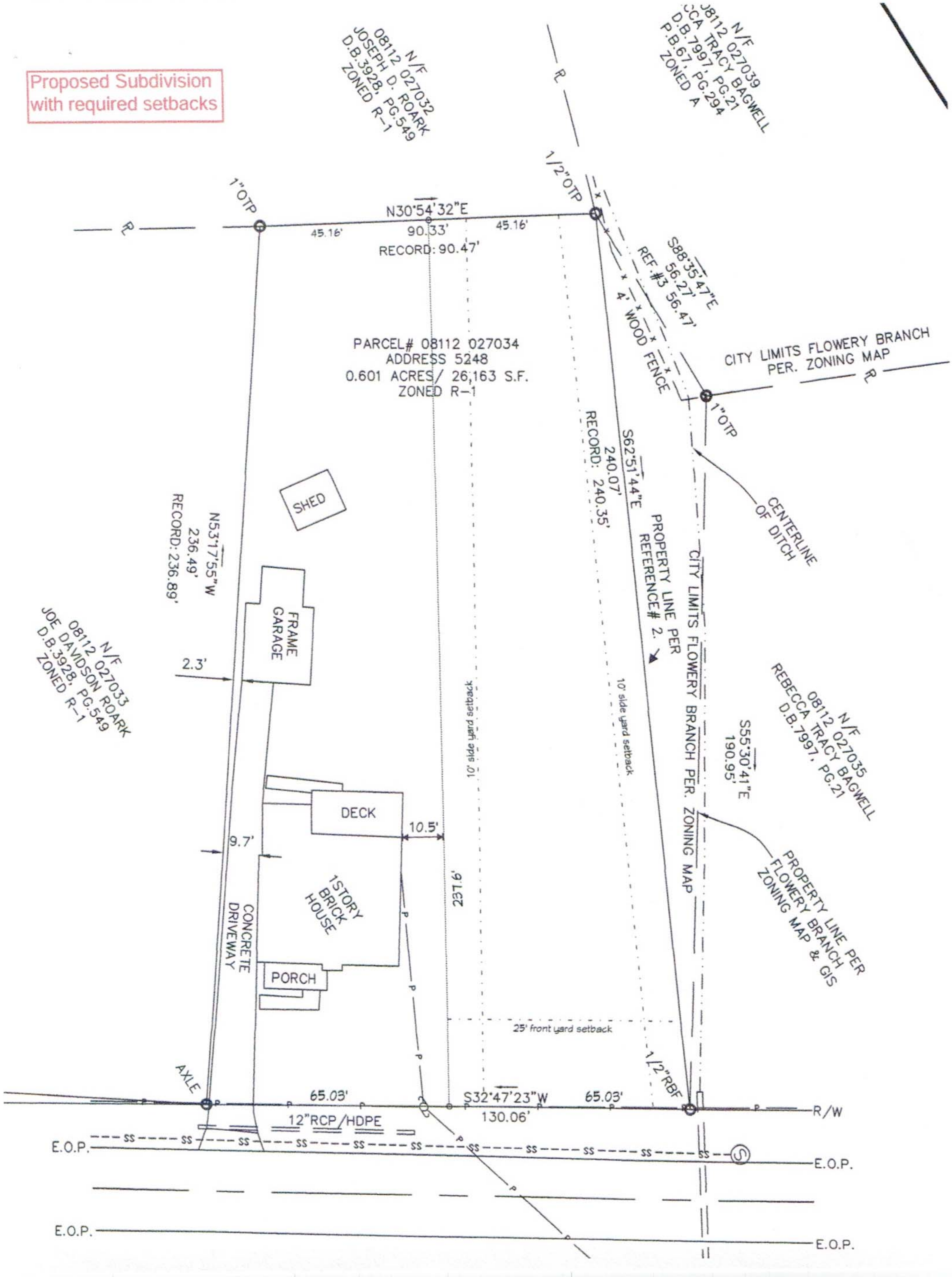
CITY OF FLOWERY BRANCH

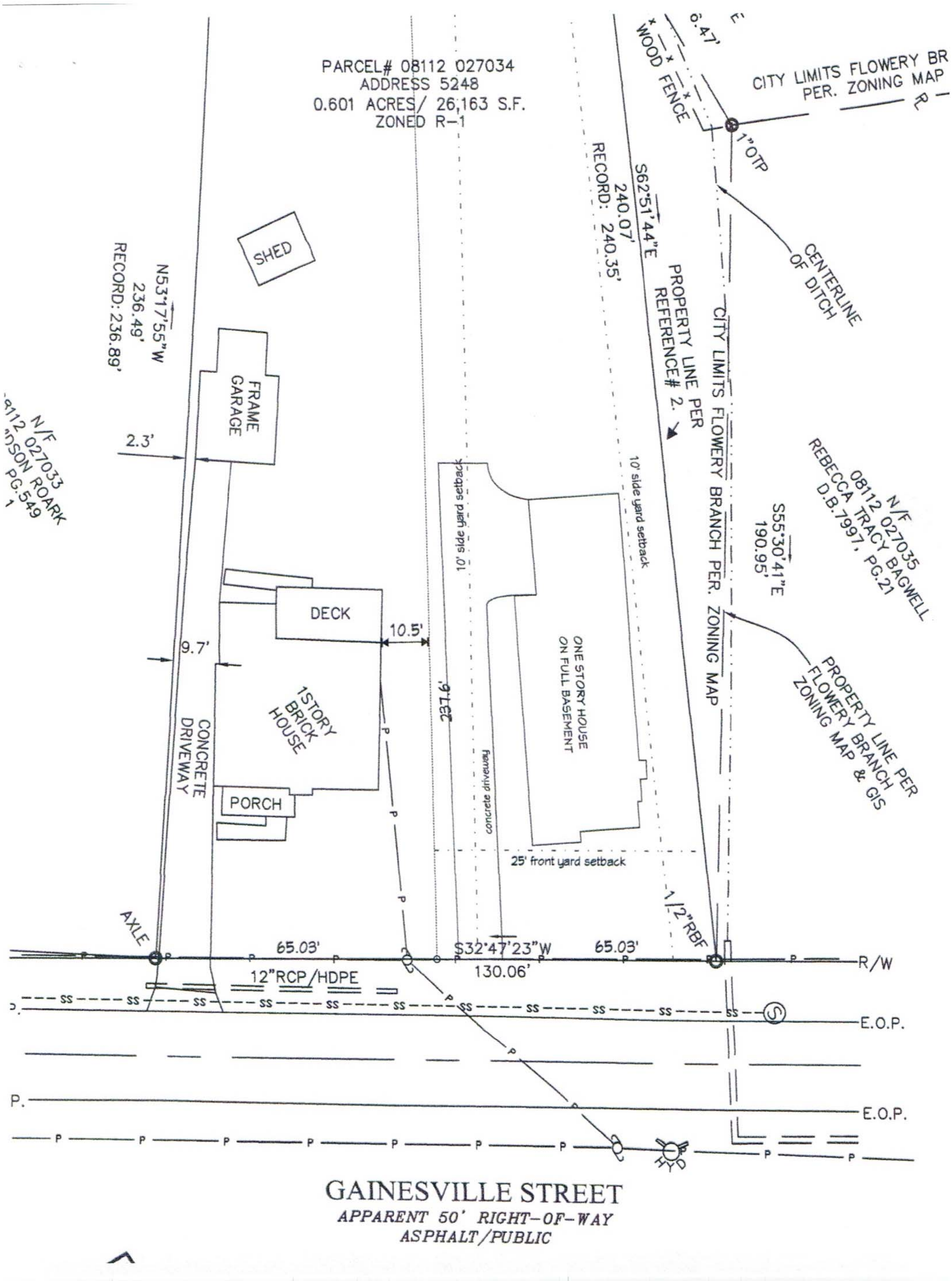
LDS

LAND DEVELOPMENT SURVEYORS, INC.
P.O. BOX 2050
DACULA, GA. 30019
(770) 682-8206
LDSURVEY@ BELLSOUTH.NET
COA LSF000832

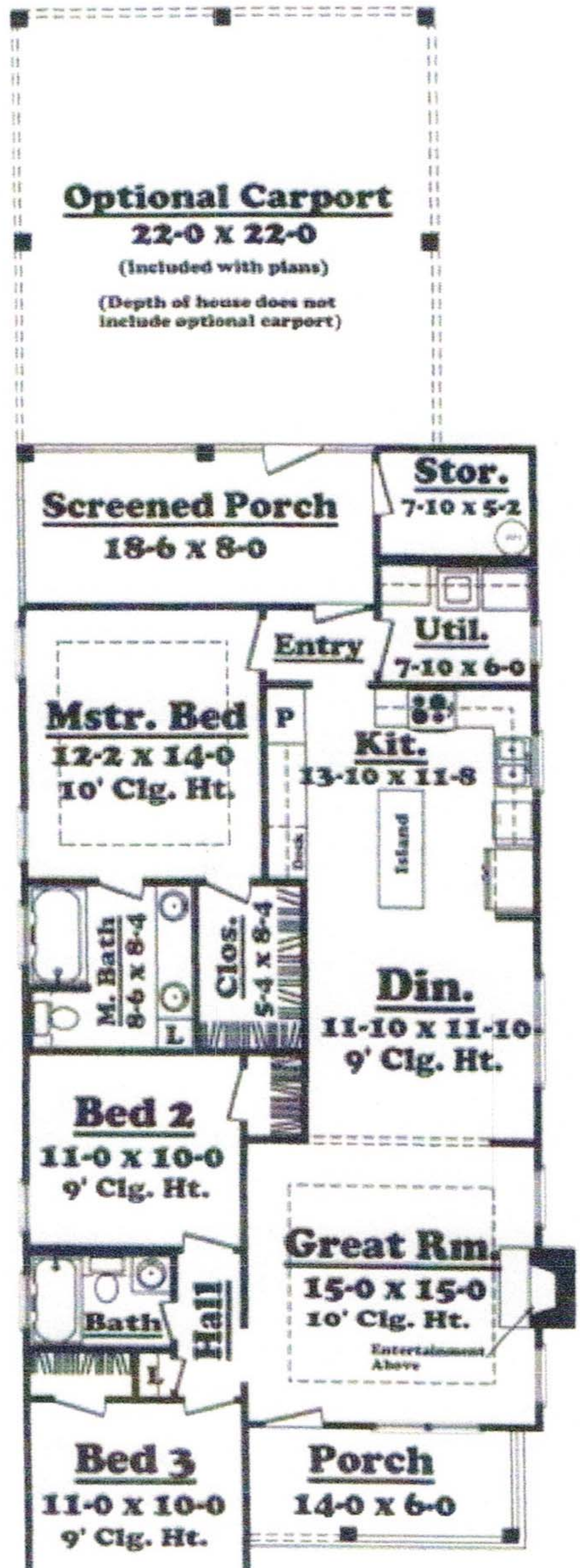
Date: 5/9/22	G.M.D. #1270		Sheet No.
County: HALL COUNTY, GA	Scale: 1"=30'		1 of 1
Field By: SF&KS	Drawn By: MSF	Checked By: LJJ	
Job Number: 22133	File Number: 22133.DWG		

Proposed Subdivision with required setbacks




PARCEL# 08112 027034
ADDRESS 5248
0.601 ACRES/ 26,163 S.F.
ZONED R-1
CITY LIMITS FLOWERY BR
PER. ZONING MAP
WOOD FENCE
6.47'
1"OTP
CENTERLINE OF DITCH
S62°51'44"E
240.07'
RECORD: 240.35'
PROPERTY LINE PER REFERENCE# 2.
CITY LIMITS FLOWERY BRANCH PER. ZONING MAP
SHED
N53°17'55"W
236.49'
RECORD: 236.89'
FRAME GARAGE
2.3'
N/F
08112 027035
REBECCA TRACY BAGWELL
D.B.7997, PG.21
S55°30'41"E
190.95'
10' side yard setback
DECK
10.5'
9.7'
1STORY BRICK HOUSE
CONCRETE DRIVEWAY
ONE STORY HOUSE ON FULL BASEMENT
concrete driveway
PORCH
PROPERTY LINE PER FLOWERY BRANCH ZONING MAP & GIS
25' front yard setback
AXLE
1/2"RBF
65.03'
S32°47'23"W
130.06'
R/W
12"RCP/HDPE
E.O.P.
HYD
GAINESVILLE STREET
APPARENT 50' RIGHT-OF-WAY
ASPHALT/PUBLIC

Ishmael


Optional Carport
22-0 x 22-0
(Included with plans)
(Depth of house does not include optional carport)
Screened Porch
18-6 x 8-0
Stor.
7-10 x 5-2
Util.
7-10 x 6-0
Entry
Mstr. Bed
12-2 x 14-0
10' Clg. Ht.
P
Kit.
13-10 x 11-8
Island
Desk
M. Bath
8-6 x 8-4
Clos.
5-4 x 8-4
L
Din.
11-10 x 11-10
9' Clg. Ht.
Bed 2
11-0 x 10-0
9' Clg. Ht.
Great Rm.
15-0 x 15-0
10' Clg. Ht.
Entertainment Above
Bath
Hall
L
Bed 3
11-0 x 10-0
9' Clg. Ht.
Porch
14-0 x 6-0


REBECCA TRACY BAGWELL
5339 COBBLESTONE
GAINESVILLE, GA 30504
FLOWERY
BRANCH
Subject Parcel
GAINESVILLE STREET
MILDRED BLACK BUTLER
106 ROBERTSON CT., N.W.
DAWSONVILLE, GA 30534
JOSEPH D ROARK
1650 WOODLAWN AVENUE N W
GAINESVILLE, GA 30501
201 ft

LEGAL DESCRIPTION

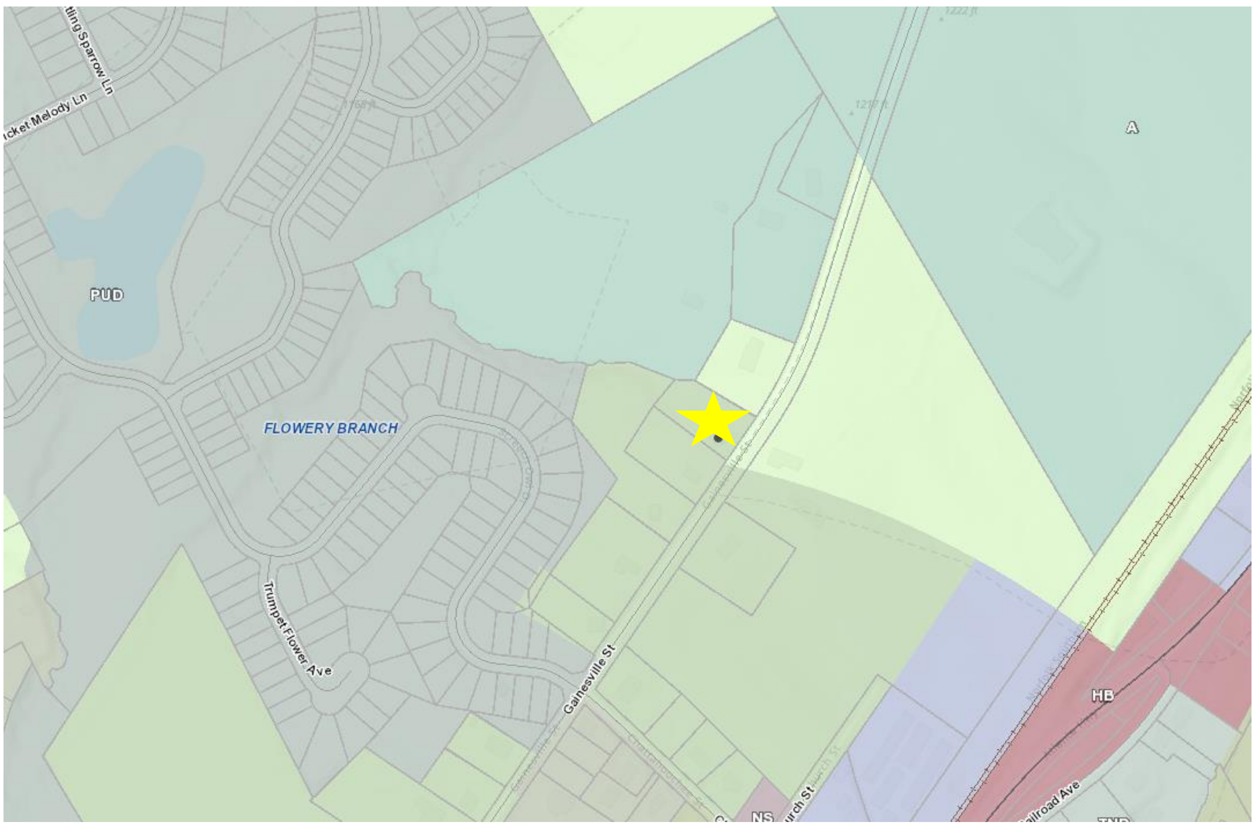
All that tract of land located in Land Lot 112 of the 8th District (G.M.D. 1270) of Hall County, Georgia, being within the city limits of Flowery Branch, and more particularly described as follows:

COMMENCING at the centerline intersection of Gainesville Street and Chattahoochee Street; thence N32˚36’ 26”E a distance of 767.12 feet to an axle found on the northwesterly right-of-way line of Gainesville Street (50’ R/W), said corner being the southeasterly corner of land now or formerly owned by Joe Davidson Roark (DB 2798, PG 284) and the **POINT OF BEGINNING**. Thence N53˚17’55”W, along the northeasterly line of said Roark land, a distance of 236.49 feet to a 1” open top pipe found at the northeasterly corner of said Roark land, said corner being located on a common line with additional land now or formerly owned by Joe Davidson Roark (DB 3928, PG 549); thence N30˚54’32”E, along a common line with said additional Roark land, a distance of 90.33 feet to a ½” open top pipe found on the common line with said additional Roark land; thence S62˚51’44”E a distance of 240.07 feet to a ½” rebar found at the southwesterly corner of land now or formerly owned by Rebecca Tracy Bagwell (DB 7997, PG 21), said corner being located on the northwesterly right-of-way line of said Gainesville Street; thence S32˚47’23”W, along the northwesterly right-of-way line of said Gainesville Street, a distance of 130.06 feet to the **POINT OF BEGINNING**.

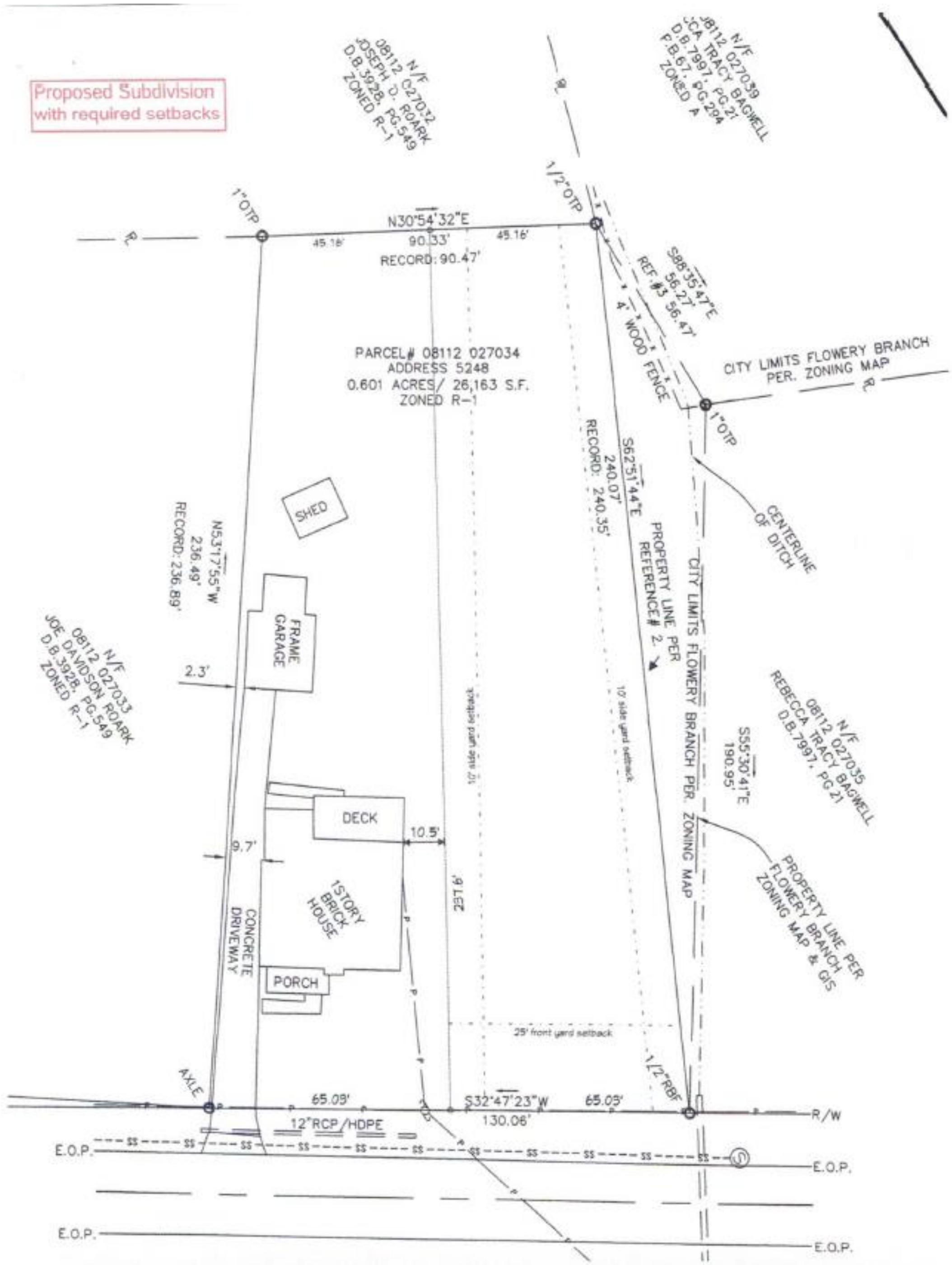
Herein described tract of land contains 26,163 square feet or 0.601 acres, and more particularly shown on a Retracement Survey Plan for Rivermore Partners by Land Development Surveyors, Inc. dated 05/09/2022.

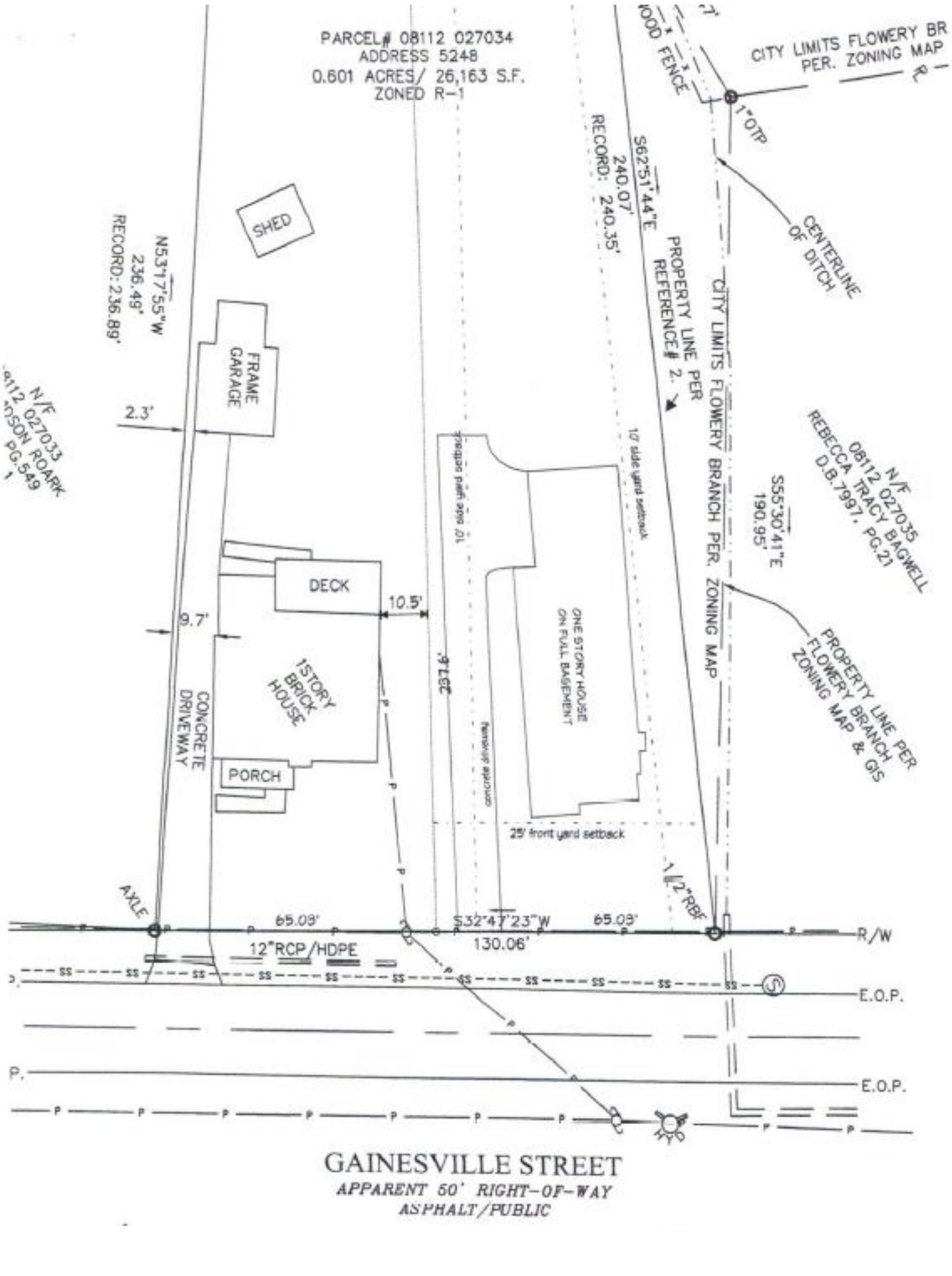
Applicant: Morgan Hudgens
Property Owner: Morgan Hudgens
Subject Property: 5248 Gainesville Street; 08112 027034; .75+/- acres
Request: Rezone from Residential, Detached Single Family, Low Density District (R-1) to Residential Multi-Family (R-3) proposal is to subdivide and construct a new single family detached dwelling.
Current Use: One single family residence
Character Area: Suburban Residential

5248 Gainesville Street; Residential, Detached Single Family, Low Density District (R-1)



The applicant wishes to rezone to R-3 in order to subdivide the property and construct one new single family detached dwelling. The current home shall remain.




PARCEL# 08112 027034
ADDRESS 5248
0.601 ACRES/ 26,163 S.F.
ZONED R-1
CITY LIMITS FLOWERY BR
PER. ZONING MAP
WOOD FENCE
1"OTP
S62°51'44"E
240.07'
RECORD: 240.35'
PROPERTY LINE PER
REFERENCE# 2.
CITY LIMITS FLOWERY BRANCH PER. ZONING MAP
CENTERLINE
OF DITCH
SHED
N53°17'55"W
236.49'
RECORD: 236.89'
FRAME
GARAGE
2.3'
N/F
08112 027035
REBECCA TRACY BAGWELL
D.B.7997, PG.21
S55°30'41"E
190.95'
10' side yard setback
DECK
10.5'
9.7'
1STORY
BRICK
HOUSE
ONE STORY HOUSE
ON FULL BASEMENT
237.6'
PROPERTY LINE PER
FLOWERY BRANCH
ZONING MAP & GIS
CONCRETE
DRIVEWAY
PORCH
25' front yard setback
AXLE
1/2"RBF
65.03'
S32°47'23"W
130.06'
65.03'
R/W
12"RCP/HDPE
E.O.P.
E.O.P.
HYD
GAINESVILLE STREET
APPARENT 50' RIGHT-OF-WAY
ASPHALT/PUBLIC

Staff Recommendation

Approve with the following conditions:

1. Water and sewer to be provided by the City of Flowery Branch
2. Property shall be developed in accordance with the requirements and standards set forth in the Flowery Branch Zoning Ordinance and Flowery Branch Development Regulations as in place at the time of adoption.

The advertisement was run on January 25, 2023
The sign was posted on the property by staff on January 23, 2023

Public Hearing Published	01/25/2023	First Reading	03/02/2023
Public Hearing	02/16/2023	Adopted	03/16/2023

ORDINANCE NO. 689

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF FLOWERY BRANCH, GEORGIA, BY REZONING A PARCEL OF REAL PROPERTY OF LAND TOTALING .75 +/- ACRES OF LAND, OWNED BY MORGAN HUDGENS, IDENTIFIED AS 5248 GAINESVILLE STREET, TAX PARCEL 08112 027034, TO BE REZONED FROM RESIDENTIAL, DETACHED SINGLE FAMILY, LOW DENSITY DISTRICT (R-1) TO RESIDENTIAL, MULTI-FAMILY (R-3), AS SHOWN ON ATTACHED EXHIBIT "A", AND AS DESCRIBED ON ATTACHED EXHIBIT "B", AND AS CONDITIONED ON ATTACHED EXHIBIT "C", PROVIDING FOR SEVERABILITY, REPEALING CONFLICTING ORDINANCES, PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, Morgan Hudgens owns the subject parcel of land identified as Parcel Tax Identification No.08112 027034, as shown on Exhibit "A", and as described on Exhibit "B"; and

WHEREAS, Morgan Hudgens submitted to the City of Flowery Branch, Georgia, a written and signed application and affidavit showing consent to being rezoned, and whereas a survey and complete description of the land to be rezoned is included in the application; and

WHEREAS, the City Council held a public hearing at the meeting of February 16, 2023, duly noticed as prescribed by law and published in the Gainesville Times, regarding said application, as shall be set forth in the minutes of said meeting.

NOW THEREFORE, THE COUNCIL OF THE CITY OF FLOWERY BRANCH HEREBY ORDAINS AS FOLLOWS:

SECTION 1. <u>FINDINGS.</u>

The City Council finds that the proposed rezoning from Residential, Detached Single Family, Low Density District (R-1) to Residential, Multi-Family (R-3) is consistent with the adopted standards for governing the exercise of the zoning power consistent with O.C.G.A. § 36-66-5 and requirements of the Zoning Ordinance as identified below.

1. The proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

2. The proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property.

3. The property could be used in accordance with the existing regulations and has a reasonable economic use as currently zoned; however, an alternative use is appropriately considered.

4. The development if approved and constructed is not expected to result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

5. The proposal is generally in conformity with the policy and intent of the comprehensive plan including the character area map and future land use plan map.

6. The proposal is considered appropriate in view of existing use(s) and zoning of the subject property and nearby properties.

7. No determination has been made by staff with regard to the value differential between development under the current zoning as opposed to Residential, Multi-Family (R-3).

8. A proposed development will not be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.

9. There are no known adverse effects that would result from the change in zoning district map, or change in use, on the character of a zoning district.

10. Development as proposed is not expected to impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. Compliance with city subdivision and land development regulations will be required, which include but are not limited to soil erosion and sedimentation, stormwater, and flood damage prevention.

SECTION 2. REZONING.

The subject parcel, as shown on Exhibit “A” and as legally described in Exhibit “B”, is hereby rezoned from Residential, Detached Single Family, Low-Density District (R-1) to Residential, Multi-Family (R-3) and conditioned as shown on attached Exhibit “C”. Said Exhibits are incorporated.

SECTION 3. AMENDMENT OF THE ZONING MAP.

This Ordinance is enacted as an amendment to the Zoning Map of Flowery Branch, Georgia. Accordingly, the Zoning Administrator is hereby authorized to update the Official Map consistent with Article 3 of the Zoning Ordinance.

SECTION 4. SEVERABILITY.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE.

The effective date of this Ordinance shall be March 16, 2023.

Public Hearing Published	01/25/2023	First Reading	03/02/2023
Public Hearing	02/16/2023	Adopted	03/16/2023

SECTION 6. REPEALER.

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Approved this 16th day of March 2023.

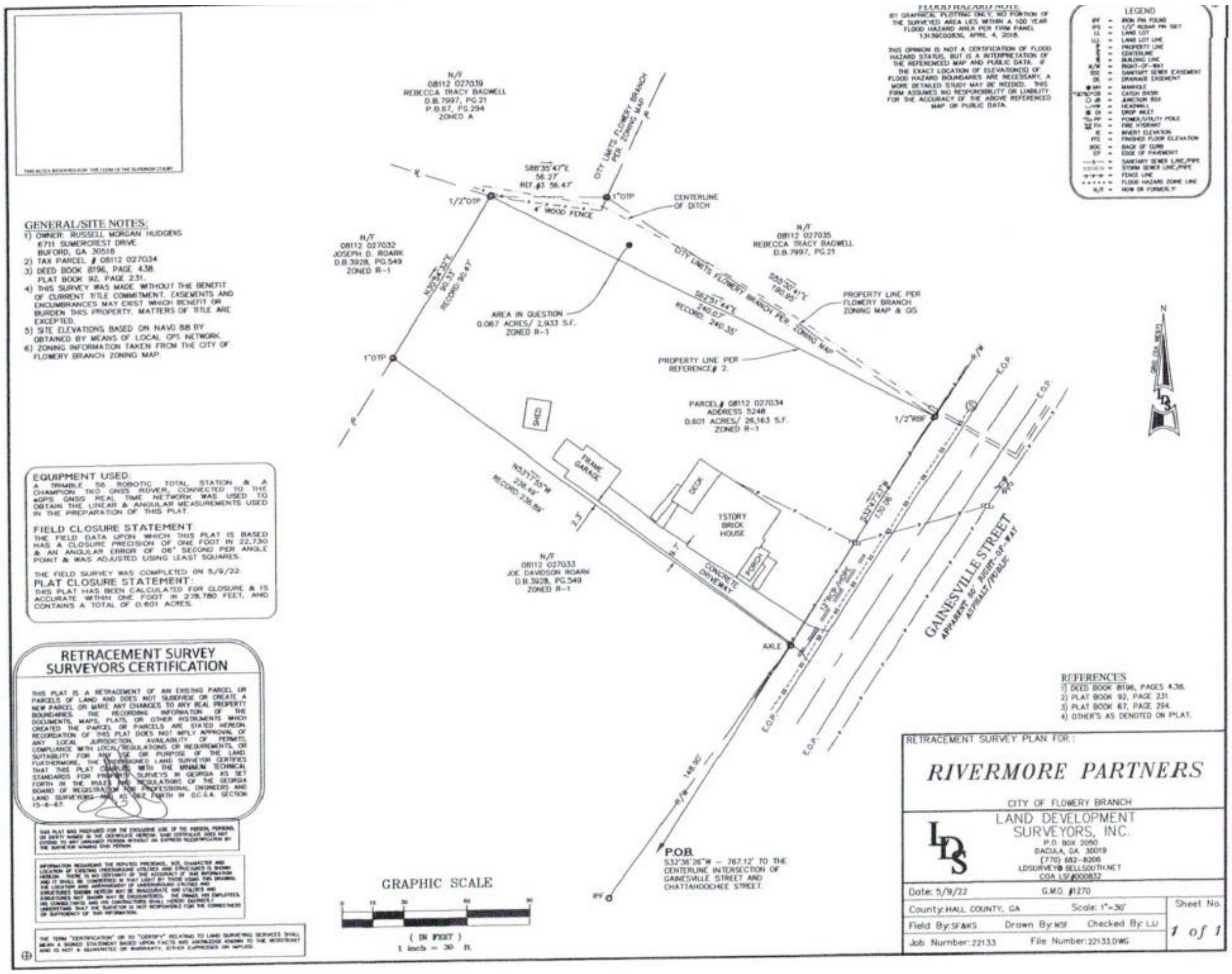
____
Edward R. Asbridge, Mayor

____
Shelia R. Cooper, City Clerk

APPROVED AS TO FORM

____
XXXXXXX, City Attorney

Exhibit "A"



GENERAL/SITE NOTES:
RETRACEMENT SURVEY
SURVEYORS CERTIFICATION
GAINESVILLE STREET
GRAPHIC SCALE
RETRACEMENT SURVEY PLAN FOR:
RIVERMORE PARTNERS
CITY OF FLOWERY BRANCH
LAND DEVELOPMENT SURVEYORS, INC.
REFERENCES
LEGEND

Exhibit "B"

All that tract of land located in Land Lot 112 of the 8th District (G.M.D. 1270) of Hall County, Georgia, being within the city limits of Flowery Branch, and more particularly described as follows:

COMMENCING at the centerline intersection of Gainesville Street and Chattahoochee Street; thence N32˚36' 26"E a distance of 767.12 feet to an axle found on the northwesterly right-of-way line of Gainesville Street (50' R/W), said corner being the southeasterly corner of land now or formerly owned by Joe Davidson Roark (DB 2798, PG 284) and the **POINT OF BEGINNING**. Thence N53˚17'55"W, along the northeasterly line of said Roark land, a distance of 236.49 feet to a 1" open top pipe found at the northeasterly corner of said Roark land, said corner being located on a common line with additional land now or formerly owned by Joe Davidson Roark (DB 3928, PG 549); thence N30˚54'32"E, along a common line with said additional Roark land, a distance of 90.33 feet to a ½" open top pipe found on the common line with said additional Roark land; thence S62˚51'44"E a distance of 240.07 feet to a ½" rebar found at the southwesterly corner of land now or formerly owned by Rebecca Tracy Bagwell (DB 7997, PG 21), said corner being located on the northwesterly right-of-way line of said Gainesville Street; thence S32˚47'23"W, along the northwesterly right-of-way line of said Gainesville Street, a distance of 130.06 feet to the **POINT OF BEGINNING**.

Herein described tract of land contains 26,163 square feet or 0.601 acres, and more particularly shown on a Retracement Survey Plan for Rivermore Partners by Land Development Surveyors, Inc. dated 05/09/2022.

Exhibit “C”

Conditions of Zoning

1. Water and sewer to be provided by the City of Flowery Branch
2. Property shall be developed in accordance with the requirements and standards set forth in the Flowery Branch Zoning Ordinance and Flowery Branch Development Regulations as in place at the time of adoption.

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider Resolution 23-004 for Purchasing Policy

COUNCIL MEETING DATE: February 16, 2023

HISTORY:
Historically, The City of Flowery Branch last updated its purchasing manual on March 18, 2019. As a prudent practice, city staff reviews the city policies to ensure they remain relevant and efficient.

FACTS AND ISSUES:
In an effort to ensure city policies remain relevant and efficient, city staff review the cities policies annually. The Purchasing policy was last reviewed and updated on March 18, 2019. During this year's review, it was determined changes to the policy are recommended to keep the purchasing policy relevant and efficient.

OPTIONS:
Approve the resolution to update the City of Flowery Branch Purchasing Policy or deny and leave the policy the same.

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:
N/A

RECOMMENDATION:
Approve recommended changes to the purchasing policy.

SAMPLE MOTION:
I make a motion to adopt Resolution 23-004 to make the necessary changes to the City of Flowery Branch's Purchasing Policy.

COLLABORATING DEPARTMENT:

DEPARTMENT: Finance

Prepared by: Shelia Cooper

ATTACHMENTS

- Executive Summary - Purchasing Manual Update.pdf
- Flowery Branch Purchasing Policy - Final 2-9-23.pdf

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Resolution 23-004 for Purchasing Policy Update.

DATE: February 16, 2023

BUDGET INFORMATION:
ANNUAL-
CAPITAL-

(X)RECOMMENDATION
( ) POLICY DISCUSSION
( ) STATUS REPORT
( ) OTHER

COUNCIL ACTION REQUESTED ON: February 16, 2022

PURPOSE:

To update the City of Flowery Branch's Purchasing Policy.

HISTORY:

Historically, The City of Flowery Branch last updated its purchasing manual on March 18, 2019. As a prudent practice, city staff reviews the city policies to ensure they remain relevant and efficient.

FACTS AND ISSUES:

In an effort to ensure city policies remain relevant and efficient, city staff review the cities policies annually. The Purchasing policy was last reviewed and updated on March 18, 2019. During this year's review, it was determined changes to the policy are recommended to keep the purchasing policy relevant and efficient.

OPTIONS:

Approve the resolution to update the City of Flowery Branch Purchasing Policy or deny and leave the policy the same.

RECOMMENDED SAMPLE MOTION:

I make a motion to adopt resolution 23-004 to make the necessary changes to the City of Flowery Branch's Purchasing Policy.

DEPARTMENT: Administration

Prepared by: Matthew Hamby

PURCHASING POLICY MANUAL

City of Flowery Branch, Georgia

Date Created: November 21, 2018

Last Revised: March 11, 2019

Revision date by: January 26, 2023

Purchasing Manual
City of Flowery Branch, Georgia

Table of Contents

Purchasing Manual 1

I. Introduction 3

II. Authority for Delegation of Purchase Authority 3

III. Policies and Procedures are Minimum Standards 3

IV. Compliance 3

V. Definitions 3

VI. Principles of Purchasing 5

A. Ethical Behavior and Conduct 5

B. Open and Effective Competition 6

C. Enhancing the Goals of the City 6

D. Value for Money 6

VII. Procurement Thresholds 7

A. Up to $1,000 7

B. $1,001 but less than $5,000 7

C. At $5,001 and above 7

VIII. Purchases Exempt from Competition 7-10

IX. Public Works Construction and Public Road Contracts 10

X. Methods of Acquisition 11

A. Request for Quote 11

1. Process Requirements 11

B. Request for Qualifications 11

C. Competitive Sealed Bidding and Proposals 12

1. Forms Required: 12

2. Statutory Requirements: 12

3. At a Minimum the Bid/RFP Should Contain: 12

4. Award of a Bid 12

5. Award of Proposal 13

XI. Withdrawal of Bids/RFPs 13

XII. Tie Bid/RFP/Quote 13
XIV. Construction Projects...14
XV. Collusive or Anti-Competitive Practices..14
XVI. Contracts...14
B. Contract is Required For:...15
C. Administrative Review and Procedures 15
D. Authority to Sign and Execute Contracts 15
E. Delegation 15
F. Authority...16
XVII. Change Orders 16
XVIII. Ethical Behavior and Conduct 17
XIX. Segmenting or Splitting...17
XX. Protests 17
XXI. Ineligible Vendor list 17

I. Introduction

Procurement and maintenance of effective purchasing systems are important functions of the City Purchasing Office. To obtain the greatest value for every dollar spent, it is necessary to follow a set of procedures when purchases are made. In all matters involving purchasing the highest ethical standards should be maintained.

The *City of Flowery Branch Purchasing Manual* references recommended best practices, forms and templates which can be found in the City of Flowery Branch Purchasing Guidelines.

II. Authority for Delegation of Purchase Authority

The City Manager has the authority to delegate authorization to purchase or sell goods or services to City departments and make changes to the purchasing policy at any time deemed necessary.

III. Policies and Procedures are Minimum Standards

The policies and procedures in the *City of Flowery Branch's Purchasing Manual* are the minimum requirements that City departments should meet and are to be consistently applied regardless of the source of funds. A department may adopt additional policies and procedures in greater detail, or use additional or alternative supporting documentation, if the department meets the required minimum standards.

IV. Compliance

Department heads are responsible for ensuring their department complies with the *City of Flowery Branch's Purchasing Manual*, as well as all the purchasing guidelines promulgated by the City under the supervision of the Purchasing Manager. Each department head shall also designate a person or persons responsible for management of purchasing within the department.

V. Definitions

Acquiring office means the department, division, board, authority or other unit of City government under whose authority, or on whose behalf, or for whose use a commodity, service, or real property is requested or acquired or a contract or agreement relating thereto is obtained.

Acquisition means a transaction in which the City purchases, orders, contracts for, or otherwise agrees to obtain for value any commodity, service, real property or combination thereof.

Active vendor status means a vendor has completed and returned all necessary documents and met requirements according to the City's vendor program policy and procedures.

Bid means submission of information from an offeror that describes the offeror's commodities or services, and any other information necessary to respond to the specifications and other requirements set forth in a request for bids.

Bid bond means a bond with good and sufficient surety or sureties for the faithful acceptance of the contract payable to, in favor of, and for the protection of the City.

Change order means a written order signed and issued, after execution of a contract agreement, by the City to the contractor authorizing an addition, deletion, or revision in the work, or an adjustment in the contract price or contract time.

City means City of Flowery Branch, Georgia.

Commodity means a discrete and distinct item of tangible personal property, including, without limitation, any such item that is intended to become an integrated part of another item of tangible personal property or of any improvement to real property, but not including after incorporation into another item of personal property or real property.

Consultant means a person who has expertise because of education or experience which uniquely qualifies him or her to provide specialized services or advice.

Contract means any agreement, purchase order, lease, or other document which creates or intended to create binding reciprocal obligations including, without limitation, any document evidencing a bid or proposal award that has been accepted by the offeror.

Contractor means any person who is party to a contract, except the City.

Day(s) means calendar day(s) unless otherwise stated.

Offeror means any person who has submitted a bid or proposal to the City or otherwise offered to form a contract with the City

Purchasing card means a corporate credit card issued by the finance department to directors/designee

Payment bond means a bond with good and sufficient surety or sureties payable to the City for work to be done and intended for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the contract.

Performance bond means a bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the City for any damages occasioned by a failure to perform the same within the prescribed time.

Person means any individual or legal entity.

Professional service means a service consisting in material part of advice, evaluation, planning, design, or other effort involving the exercise of judgment, discretion, and knowledge, including, without limitation, a service provided by a person whose profession is licensed or regulated by the state or federal government. This includes, but is not limited to, such services as legal, medical, engineering, surveying, and architecture.

Proposal means submission of information from an offeror (including a consultant) which states how that offeror intends to fulfill the specifications and other requirements described in a request for proposals.

Purchasing Manager, the employee designated by the City to review purchase requests and bids, make purchasing recommendations, and ensure that employees of the City comply with rules, regulations, and laws relating to purchasing.

Responsible bidder or offeror means a person who has the capability in all respects to perform fully the contract requirements, and the experience, reliability, capacity, facilities, equipment and credit which will assure good faith performance.

Responsive bidder or offeror means a person who has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation.

Services means the furnishing of labor, time or effort by a contractor which is not intended to accomplish the delivery of a specified tangible product other than reports that are merely incidental to the required performance, including, without limitation, a professional or consulting service.

Specification means, in connection with a request for bids or request for proposals, a list of the characteristics of the commodities or services that will meet the City's requirements.

VI. Principles of Purchasing

The City of Flowery Branch’s purchasing requirements and strategies are based on the following four fundamental principles:

1. Ethical Behavior and Conduct

Purchases made on behalf of the City shall comply with the City’s Code of Ethics which can be found in Part II, Chapter 2, Article III of the City's Ordinances. The objectives of ethical behavior and conduct are to ensure that in its procurement activities, the City will:

- Behave with impartiality, fairness, independence, openness, integrity and professionalism in its dealings with suppliers;
- Advance the interests of the City in all transactions with suppliers;
- Ensure that its purchasing personnel attain the highest level of credibility with suppliers.

2. <u>Open and Effective Competition</u>

The objectives of open and effective competition are:

- To instill confidence in the City and the public about the integrity and cost effectiveness of public sector procurement;
- To maximize the most economically beneficial outcome for the City;
- To ensure that all suppliers wishing to conduct business with the City are given a reasonable opportunity to do so; and
- To ensure that bid documents and contracts reflect the requirements and desired outcome of the City and that all participants are subject to equivalent terms, conditions and requirements.

3. <u>Enhancing the Goals of the City</u>

The objectives of enhancing the socio-economic goals of the City, based on the considerable procurement power of the City is:

- To support a diverse supplier pool, including small, minority, and women-owned firms, and encourage their participation in City business.

4. <u>Value for Money</u>

The objectives of obtaining value for money are:

- To achieve the best possible return on City funds spent on goods and services; and
- To recognize that this may not necessarily amount to purchasing at the lowest price.

VII. Procurement Thresholds

1. Up To $1,000.00

A Department may acquire goods and services with a value of $1,000.00 or less. The $1,000.00 limit is calculated per acquisition. Acquisitions may not be split to circumvent these procedures.

B. $1,000.01 but less than $25,000.00

A Department may conduct an acquisition more than $1,000.01 but less than $25,000.00 after solicitation of a minimum of 3 quotes or unless otherwise stated in *Purchases Exempt from Competition*.

C. At $25,000.01 and above

A Department may conduct an acquisition more than $25,000.01 through the solicitation of a Bid or Request for Proposal or unless otherwise stated in *Purchases Exempt from Competition*.

Purchase Amount	Responsible Party	Procurement Method	Minimum Quotes	Approval Authority
$0.01 - $99.99	Department Director/Designee	P-Card or Check Request	0	Department Director
$100.00 - $1,000.00	Department Director/Designee	P-Card or Check Request	0	Department Director
$1,000.01 - $5,000.00	Department Director/Designee	Purchase Order	3 Written quotes	Department Director Budget Manager
$5,000.01 - $25,000.00	Department Director/Designee	Purchase Order Required	3 Written quotes	Department Director Budget Manager Finance Director
$25,000.01 - $50,000.00	Department Director/Designee	Sealed bid/Proposal/Qualifications Purchase Order Required	Bid/Proposal	Department Director Budget Manager Finance Director City Manager
$50,000.01 and over	Department Director/Designee	Sealed bid/Proposal/Qualifications Purchase Order Required	Bid/Proposal	Department Director Budget Manager Finance Director City Manager City Council

VIII. Purchases Exempt from Competition

These acquisitions are clearly and legitimately limited to a single source of supply or involve special facilities, services, or market conditions and are designated as exempt from competitive bid requirements. Purchases exempt from competition do not nullify the need for a Purchase Order.

Utilities - Fees, charges, and assessments for public utilities such as garbage, gas, sewer, cable TV, power, water, lights, fire protection, and recycle services.

Postage, Postal Service, FedEx and UPS

Professional Licenses and Memberships Professional association membership dues (e.g. chamber of commerce, etc.) or professional licenses required by employer or state law where such transactions are valid reimbursable expenses.

Publications, Subscriptions and Information Service Directories - Publications, subscriptions and information service directories in print or electronic format (e.g. Thomas Register, Kelly Blue Book, etc.).

Conferences and Seminars

Registration/tuition for conferences, seminars and professional development

Lodging services
* City employees must review the City Travel policy for more detailed requirements.

Miscellaneous Fees
- All government and court-imposed fees;
- Fees for obtaining records

Legal/Promotional Advertisements and Awards - Legal or promotional advertisements cost via public media to include but not limited to newspapers, video, radio, billboards or journals.

Costs for use of Patented Graphic Design - Costs for use of patented graphic designer artwork and reproduction rights associated with that patent.

Training Services

Basic Health Screening/Diagnostic Costs

Interagency Contracting Expenses - Expenses incurred via contract with another public agency to ensure continuation of grant funding where such services or materials must be purchased from a specific source or manufacturer. For example, a federal agency requires the purchase and use of a specific brand of equipment for performing specific services under that contract and the use of other brands would cause loss of funding and/or termination of the contract by the federal agency.

Real Property - Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property. (This also includes the leasing or rental of real property upon approval of City Council.)

Items for Resale - Items for resale that require a manufacture to enhance their marketability.

Artwork - Works of art for public places.

Professional Services - Professional or technical services provided by a consultant to accomplish a specific study, project, task, or other work statement. Professional services under $1,001 are exempt upon approval of the Department Director, $1,001 - $5,000.00 are exempt upon approval of the Budget Manager, $5,000.01 - $25,000.00 are exempt upon approval of the Finance Director, and Professional services over $25,000 are exempt upon approval of the City Manager.

Venues for recreational or educational purposes

Licensed Computer Software Support/Maintenance

Purchases made Associated with Warranty Work - Services required by proprietary ownership and original equipment manufacturers such as maintenance contract.

Security System Monitoring

Renewal/Extension of Contracts - Ongoing services or agreements may be renewed or extended if the department head determines that it is in the best interest of the City, so long as the renewal of the contract does not extend the contract period beyond three years from the initial contract approval. This decision should be based on satisfactory service, reasonable prices and the desire to avoid the interruption of City business; and/or based on good business sense if pursuant to the terms and conditions of the contract. All renewals/extensions of contracts must comply with O.C.G.A § 36-60-13. See also purchasing guidelines.

Cooperative Purchasing - Departments may only participate in cooperative purchasing with prior review and approval of the Purchasing Manager.

Sole Source Acquisition - Based upon a written determination that a particular supply, service, or construction item may be obtained from only one (1) source and no similar supply, service, or construction item available from a different source will adequately meet an acquiring office's requirements and specifications, the purchase may be approved as "sole source," pursuant to O.C.G.A. § 36-91-2(17).

Used Equipment, Furniture, Vehicles or Materials - A department may purchase used or refurbished equipment, furniture, vehicles or materials from the private sector without competition if the same or similar articles are not available from more than one source. The articles must meet the following conditions:

- Fair market value is being paid and,
- Competitive pricing is not feasible.

Emergency Purchases - Emergency purchases may be made when there exists an emergency constituting a threat to public health, safety or welfare or to the soundness and integrity of public property or the delivery of essential services and where the adverse effects of such emergency may worsen materially with the passage of time. Acquisitions shall be made using such competitive procedures as circumstances reasonably permit. Emergencies shall be documented by the acquiring department and submitted to the purchasing office and shall be subject to the approval at the highest level designated in this policy for the purchase amount. **Lethargy does not justify an emergency purchase.**

Vehicle Repair – when it is not practical to obtain multiple quotes or when obtaining multiple quotes may cause excess expense (e.g. Vehicle is inoperable and must be towed).

Brand or Product Conformity - brand or product conformity may be exempt from competition when a long-term cost savings can be demonstrated and documented.

Bank Services – banking services are exempt from competition; however, an analysis on the cost of services shall be rendered periodically to ensure they are still competitive.

IX. Public Works Construction and Public Road Contracts

Public works construction and public road contracts shall comply with the provisions of State Law as noted below:

- Public works construction contracts are governed by O.C.G.A § 36-9-20, et seq.
- Public road contracts are governed by O.C.G.A § 32-4-110, et seq.

X. Methods of Acquisition

There are a variety of methods available to departments to acquire goods and services. This part discusses the various methods of acquisition, when to use, and the requirements. This section is not intended to supersede any state or federal requirements. Acquisition rules, regulations, and laws associated with the use of state and federal funds must be followed closely. The Purchasing Guidelines are available to employees to review each method in more detail and templates are provided that may be used for each procurement method.

When you are required to conduct a competitive procurement process you must use one of the following methods:

- Request for Quote
- Request for Qualifications
- **Competitive Sealed Bidding and Proposals**

A. Request for Quote

Purchases between $1,0001.01 and $25,000 are to be competitively solicited and documented.

1. Process Requirements

- A minimum of three quotations shall be sought and vendors shall be notified using a standard Request for Quote form. If fewer than three sources are solicited, the reasons are to be explained in writing and included in the purchase file.
- The quote in response may be written, faxed or emailed.
- Quotations must be received within 30 days of each other;
- Oral interpretations of contract terms and conditions by the purchaser shall not be binding.
- Existing quotes, less than 90 days old, may be reused. (price must be verified with vendor)
- Awarded to the lowest responsive and responsible quote.

B. Request for Qualifications

A procurement process based solely on prior experience and specific qualifications. Price will be determined during negotiations process.

C. Competitive Sealed Bidding and Proposals

The City purchasing ordinance requires a formal competitive process for purchases of more than $25,000.01.

1. **Forms Required:**

   - Bid Log (to obtain Bid/RFP number from Purchasing)
   - Permission to Solicit Bid/RFP
   - Bid/RFP Document
   - Contract Document (if applicable)
   - Terms and Conditions (if applicable)
   - Potential Bidder List

2. **Statutory Requirements:**

   - All bids shall be in writing and received by the stated due date. Late bids will not be considered and must be returned.
   - Public Notice shall be provided using the specified legal organ for a minimum of one day a week for two consecutive weeks, unless otherwise required by the law regarding public works construction contracts or public road contracts.
   - Bids/RFP must be recorded and publicly opened.
   - The requirements may be changed or amended, provided the change is issued prior to the opening date and time specified.

3. **At a Minimum the Bid/RFP Should Contain:**

   - The purchase description
   - Specifications covering the item or items needed
   - Terms and conditions
   - Criteria for evaluating the solicitation
   - Whether the "lowest responsive bid" will be computed by (1) line item; (2) groups of items, (3) the entire bid; or (4) if it otherwise allows the purchaser the discretion to make that determination independently
   - Price sheets for the vendors to submit prices

4. **Award of a Bid**

   In the competitive bid method of selecting a contractor, the essential elements for award are:

   - The responsiveness of the bidder
   - The lowest priced bid that meets the evaluation criteria set forth in the

solicitation

5. **Award of Proposal**

In the competitive proposal method of selecting a vendor, some of the essential elements for consideration are:

- Price
- Experience
- Response/Service/Delivery/Installation Time
- Warranty
- Reference responses
- Stock Level
- Financial Stability
- Staff level
- Product/Sample Quality

D. Withdrawal of Bids/RFPs

Bids may be withdrawn at any time prior to the bid opening. After bids have been publicly opened, withdrawal of a bid shall be based upon the following:

- Notice in writing.
- Within two business days of the bid opening.
- If the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake.
- If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be the low bid.
- If a RFP is withdrawn under the authority of this provision, the remaining proposer with the highest number of points shall be deemed to the most responsive proposer.

E. Tie Bid/RFP/Quote

In the event that bidders are tied for the lowest price and the other terms and conditions of the bids are substantially the same, the bid shall be awarded to a bidder using the following priorities: bidder with its principal place of business in the City; bidder with fixed location in the City; bidder with its principal place of business in Hall County; bidder with a fixed location in Hall County; bidder with its principal place of business in the state; bidder with a fixed location in the state. If the above criteria do not break the tie, the bid shall be awarded to the winner of a coin toss conducted by the purchasing staff in a location open to the public where bidders and at least one (1) witness may be present.

F. Construction Projects

Public works construction projects, as defined in O.C.G.A. § 36-91-1, et seq., shall generally follow the provisions set forth in this policy and may have additional bonding requirements.

Bonding Requirements: Bid, performance and payment bonds shall be required for all contracts where the cost is fifty thousand dollars ($50,000.00) or greater. The City may, at its discretion, require bid, performance, and payment bonds for any contract where cost is less than the previously stated thresholds. In lieu of the bid bond described above, an offeror may submit with the bid or proposal a cashier's check, certified check, or irrevocable letter of credit payable to the City in an amount not less than 5% of the purchase price specified in the bid or proposal provided that the form of such letter of credit and the lending institution have been approved by the City in advance. This section shall apply to projects not otherwise governed by State Law.

G. Collusive or Anti-Competitive Practice

No bidder shall engage in collusive or anti-competitive practices in responding to a solicitation for bids or proposals.

H. Contracts

This section uses the term 'contract' to mean any agreement, other than a City issued Purchase Order, that creates an obligation, right, or liability for the City of Flowery Branch. An agreement may be a binding contract even though one party provides something of value to the other party at no charge. This policy applies to the initial contract and to every amendment, renewal or extension of such a contract. For multi-year contracts please refer to O.C.G.A § 36-60-13.

a. **Title VI of the Civil Rights Act of 1964:**
The City of Flowery Branch will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d—42 USC 2000d—4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement.

b. **A Contract is Required For:**

i. The design or construction of City infrastructure.
ii. When there are liability issues involved (for the City).
iii. When the depreciable life of the asset is greater than 20 years.
iv. When the agreement creates an obligation upon the City for a period of 5 years or more.
v. When the cost for professional services will exceed $25,000.
vi. Whenever deemed necessary by the Finance Director, Department Director, City Attorney, or City Manager.

c. **Administrative Review and Procedures**

The employee initiating the contract is responsible for reading the contract entirely and determining:

i. That the contract language is clear and consistent.
ii. That they can ensure compliance with the obligations the agreement places on the Contractor and the City.
iii. If insurance requirements are met in accordance with the Insurance Matrix.
iv. If legal reviews are required for legal form including, but not limited to, appropriate designation of parties, legal consideration (i.e., mutual obligations), jurisdiction, term and liability.
v. That the necessary financial resources are available by obtaining a purchase order.
vi. That the contract has secured the necessary approvals and signatures.
vii. That the Contract Processing Form is completed and submitted to the City Clerk.

d. **Authority to Sign and Execute Contracts**

As established by Sections 2.4(c) and 8.1 of the City Charter, the Mayor has the authority to sign contracts, deeds, licenses, fiscal expenditures, and other public documents on behalf of the City after approval of the governing body, either by approval of the specific contract or as authorized as part of the budget process. The City Manager is responsible for implementation of all contracts as approved and directed by the City Council.

e. **Delegation**

The City Manager has delegated implementation authority at defined levels, as set forth herein, Finance Director and Department Directors.

f. Authority

1. **Department Directors** have the authority to implement contracts up to $5,000 after approval of the Mayor/City Council and as delegated by the City Manager, so long as such contracts have been specifically approved by the governing body or authorized as part of the budget process:

    - Annual operational and/or maintenance contracts
    - Professional Service Agreements
    - Grant Agreements for the purchase of products, with no requirements that the City match any funds provided, unless otherwise required by the Grant Agreement
    - Lease and Rental Agreements for use of space for professional meetings
    - Utility agreements
    - Notice to Proceed/Engagement Letters
    - Sponsorship agreements for City events or tournaments

2. **Finance Director** has the authority to implement contracts referenced in the preceding section, up to $25,000, after approval of City Attorney and, if applicable, Risk Management, so long as such contracts have been specifically approved by the governing body or authorized as part of the budget process.

3. **City Manager** has the authority to implement contracts referenced in the preceding section, up to $50,000, after approval of City Attorney and, if applicable, Risk Management, so long as such contracts have been specifically approved by the governing body or authorized as part of the budget process.

4. All contracts require a resolution of the governing body before implementation by the City Manager.

I. Change Orders

It is the policy of the City to limit change orders. However, the City recognizes that at times circumstances may dictate that changes be made to the scope of a project or procurement.

All contract change orders shall be accompanied with a description and justification and will be reviewed by the City Attorney and forwarded to the City Manager for review and execution by the governing body if it exceeds original budget. All change orders must be approved by the City Manager.

J. Ethical Behavior and Conduct

The ethics law is designed to protect City employees from conflicts of interest or from engaging in activities where their interests or loyalties could be divided or may be questioned. Employees should familiarize themselves and adhere to the Code of Ethics contained in the City of Flowery Branch Code of Ordinances.

K. Segmenting or Splitting

Splitting is impermissible. The Purchasing Office may conduct a quarterly review of department accounts to determine if invoice splitting or segmenting exists.

L. Protests

Departments are responsible for responding to protests related to any procurement they conduct, and any associated legal costs incurred. The Purchasing Office is available for guidance. If the Purchasing Office conducts the procurement for you, we will manage the protest response effort for your department.

M. Ineligible Vendor list

Please refer to the following list for reason to request a vendor be added to the ineligible vendor list:

- Any vendor who submits a bid or proposal in bad faith;
- Any vendor who willfully or repeatedly breaches a contract with the City;
- Any vendor who refuses to accept a bid award or proposal award;
- Any vendor who has established a pattern or practice of unethical or immoral business practices;
- Any vendor who owes delinquent fees, judgments, taxes, or other amounts to the City, provided however, that upon the payment of such delinquency, the person shall be removed from the ineligible vendor list;
- Any vendor who is owned, controlled or managed, in whole or in part, by any other person described in subsection (1) through (5) above.

Any such vendor shall not be eligible to provide any commodities or services to the City during the period such vendor remains on the ineligible vendor list. The vendor shall be placed on the ineligible vendors list for a reasonable period, not to exceed three (3) years.

If a vendor is placed on the ineligible vendor list, a written memo of the determination, citing the rules listed above and the number of times violated, and length of time the vendor will be on the ineligible vendor list, will be submitted to the vendor in question.

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider January 2023 Per Diem for Mayor Asbridge

COUNCIL MEETING DATE: February 16, 2023

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- Mayor Per Diem January 2023.pdf

City of Flowery Branch
Mayor & Council Attendance Sheet Per Diem Pay

Name: Mayor Edward Asbridge Month/Year: January 2023

Meeting Date	Description of Meeting
January 17, 2023	Chamber Small Business Coalition
January 18, 2023	Chamber - Issues Committee
January 26, 2023	Chamber – Board of Directors Meeting

My signature certifies that I am eligible to be paid for 3 meeting dates, a maximum of 5 per month, in accordance with the Per Diem Pay as described in Ordinance 477 and at a rate of $50.00 per meeting.

Total of $150.00

Signature

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider February 2, 2023 City Council Meeting Minutes

COUNCIL MEETING DATE: February 16, 2023

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- Unofficial February 2, 2023 City Council Meeting Minutes.pdf

City of Flowery Branch
City Council Meeting
Thursday, February 2, 2023, 6:00 PM
City of Flowery Branch City Hall
5410 W. Pine Street, Flowery Branch, GA 30542

CALL WORK SESSION TO ORDER:

Mayor Asbridge called the council meeting to order at 6:01 p.m.

Present: Mayor Asbridge and Council Members Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte and Chris Mundy.

Also present were City Manager Tonya Parrish, City Clerk Shelia Cooper, Planning Director Rich Atkinson, Public Works and Utilities Director Bill Whidden, Finance Director Matthew Hamby, Community Relations Director Renee Carden and City Attorney Ron Bennett.

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Asbridge led the Pledge of Allegiance.

ADOPTION OF AGENDA:

There was a motion made to approve the agenda as presented.

MOTION:	Joe Anglin
SECOND:	William McDaniel
AYES:	Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS:	None

Motion carried

NEW BUSINESS -WORK SESSION:

Award Contract to Legacy Water Group, LLC for the Connection to Gainesville's Sanitary Sewer System and Declaration of an Emergency

Trey Gavin with ESG Engineering, presented a proposal for awarding a contract to Legacy Water Group, LLC for the connection to Gainesville's Sanitary Sewer System and declaration of an emergency. The City of Flowery Branch has been near capacity at its wastewater treatment plant and staff sought out several alternatives for more capacity while a new plant was being designed and constructed. ESG Engineering has been working with staff to identify the lines to connect to Gainesville's sanitary sewer system and a potential route for the new pipeline. The cost of the lines and connections are anticipated to be $2,066,851.50 with funding to be provided from system development charges. An emergency exists because the current wastewater treatment plant, which is permitted to handle 910,000 gallons per day (GPD), is currently operating near capacity and the city has recently received violation notices and fines from EPD associated with these issues. Mr. Gavin believes this to be a "max not-to-exceed" price and will work to bring the project in below this total. The only unknown currently of concern is the potential for rock blasting during installation, but we believe this will not be an issue based on our knowledge of the area.

Consider Executing a Performance Agreement for Swingin' Medallions on Saturday, September 23, 2023, at the September Fall Event

Director Carden presented a consideration of a performance agreement with the Swingin' Medallions for Saturday, September 23, 2023, from 2pm – 10pm. There will be craft & art vendors, food trucks, sports themed games & a focus on the Falcons. They will be performing at the Market Pavilion from 7:30pm – 9:30pm. The cost is $6,000 which includes all light and sound needs.

DEPARTMENT REPORTS:

Community Relations Department Report:

Director Carden reminded residents the Farmer's Market will be the second and fourth Thursdays of every month from 3:30 – 6:30. There will be a special Farmer's Market on Thursday, March 16, 2023, which will be a St. Patrick's Day Party.

Finance Department Report:

Director Hamby reported his department has received the check from the Keep Georgia Beautiful Foundation grant for $5,000. He also reported the 2023 LMIG funding has been received as well.

Planning Department Report:

Director Atkinson reported the schedule for land use decision has been updated and is on the City website.

ADJOURNMENT WORK SESSION:

Mayor Asbridge adjourned the work session at 6:07 p.m.

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

Mayor Asbridge called the voting session to order at 6:07 p.m.

PUBLIC COMMENTS: There were no public comments.

CONSENT AGENDA:

- Consider January 17, 2023, Special Called City Council Meeting Minutes
- Consider January 19, 2023, City Council Meeting Minutes

There was a motion made to approve the consent agenda as presented.

MOTION:	Chris Mundy
SECOND:	Oliver McClellan
AYES:	Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS:	None

Motion carried

UNFINISHED BUSINESS - VOTING SESSION:

Consider the Second Reading of Ordinance 686 and Ordinance 687 for Variance Requests submitted by Mr. Jason Jackson for relief from the Zoning Ordinance Requirements set forth in Table 6.2 for 6027 and 6031 Morrow Drive.

Attorney Bennett read the captions to Ordinance 686 and Ordinance 687.

There was a composite motion made to approve the second reading of Ordinance 686 and Ordinance 687 as presented.

MOTION:	Oliver McClellan
SECOND:	William McDaniel
AYES:	Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS:	None

Motion carried

Consider Second Reading of Ordinances 678 - 683 for Variance Requests submitted by Jason Jackson: Ordinance 678 for 6005 Lights Ferry Road, Ordinance 679 for 6006 Lights Ferry Road, Ordinance 680 for 6010 Lights Ferry Road, Ordinance 681 for 6014 Lights Ferry Road, Ordinance 682 for 6016 Lights Ferry Road, and Ordinance 683 for 6018 Lights Ferry Road, Flowery Branch, GA.

Attorney Bennett read the captions for Ordinance 678, 679, 680, 681, 682, and 683.

There was a composite motion made to approve the second reading of Ordinances 678, 679, 680, 681, 682 and 683 as presented.

MOTION: Joe Anglin
SECOND: Chris Mundy
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

NEW BUSINESS - VOTING SESSION:

Award Contract to Legacy Water Group, LLC for the Connection to Gainesville's Sanitary Sewer System and Declaration of an Emergency

There was a motion made to approve a declaration of an emergency and awarding a contract to Legacy Water Group, LLC for the connection to Gainesville's Sanitary Sewer System as presented by Trey Gavin, ESG Engineering.

MOTION: Joe Anglin
SECOND: William McDaniel
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

Consider Executing a Performance Agreement for Swingin' Medallions on Saturday, September 23, 2023, at the September Fall Event

There was a motion made to approve executing a performance agreement for Swingin' Medallions for September 23, 2023, at the September Fall Event.

MOTION: Chris Mundy
SECOND: Oliver McClellan
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

EXECUTIVE SESSION:

There was a motion made to enter executive session for matters related to pending or potential litigation and for matters related to certain personnel issues at 6:23 p.m.

MOTION: Chris Mundy
SECOND: Joe Anglin
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy

NAYS: None
Motion carried

There was a motion to exit executive session at 6:41 p.m.

MOTION: Oliver McClellan
SECOND: Chris Mundy
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

ADJOURNMENT:

There was a motion made to adjourn at 6:41 p.m.

MOTION: Oliver McClellan
SECOND: William McDaniel
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

Edward R. Asbridge, Mayor	Date	Shelia Cooper, City Clerk

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider Second Amendment to FB Main Street, A Master Condominium Shopping Center Lease Agreement with El Sabor Costeno Taqueria, LLC.

COUNCIL MEETING DATE: February 16, 2023

HISTORY:
The City of Flowery Branch and El Sabor Costeno, LLC entered into a lease agreement previously and the tenants began the process of finishing the space for the opening of the restaurant.

FACTS AND ISSUES:
Upon inquiring of several contractors, the tenants of El Sabor Costeno, LLC were made aware of various supply chain issues and cannot complete the work within the timeframe set forth in the original lease. The tenants were granted an additional 90 days for the build-out of their leased space on October 6, 2022. The tenants have requested an additional 90 days due to review process complications.

OPTIONS:
(1) Approve the second amendment to the lease agreement with El Sabor Costeno, LLC. 2) Do not approve the second amendment to the lease agreement with El Sabor, Costeno, LLC and rent will commence upon the original terms.

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:
Motion to approve the second amendment FB Main Street, A Master Condominium Shopping Center lease agreement.

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- Executive Summary Second Amendment to Lease Agreement with El Sabor Costeno, LLC..pdf
- Second Amendment El Sabor Costeno, LLC Lease Agreement.pdf
- El Sabor Costeno, LLC Lease Agreement.pdf
- 10.6.2022 First Amendment El Sabor Costeno Taqueria, LLC.pdf

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Second Amendment to FB Main Street, a Master Condominium Shopping Center Lease Agreement with El Sabor Costeno, LLC

DATE: February 13, 2023

BUDGET INFORMATION:
ANNUAL- N/A
CAPITAL- N/A

(X) RECOMMENDATION
( ) POLICY DISCUSSION
( ) STATUS REPORT
( ) OTHER

COUNCIL ACTION REQUESTED ON: February 16, 2023

HISTORY: The City of Flowery Branch and El Sabor Costeno, LLC entered into a lease agreement previously and the tenants began the process of finishing the space for the opening of the restaurant.

FACTS AND ISSUES: Upon inquiring of several contractors, the tenants of El Sabor Costeno, LLC were made aware of various supply chain issues and cannot complete the work within the timeframe set forth in the original lease. The tenants were granted an additional 90 days for the build-out of their leased space on October 6, 2022. The tenants have requested an additional 90 days due to review process complications.

OPTIONS: (1) Approve the second amendment to the lease agreement with El Sabor Costeno, LLC. 2) Do not approve the second amendment to the lease agreement with El Sabor, Costeno, LLC and rent will commence upon the original terms.

RECOMMENDED SAMPLE MOTION: Motion to approve the second amendment FB Main Street, A Master Condominium Shopping Center lease agreement.

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS: Second amendment to FB Main Street, a master condominium shopping center lease agreement.

SECOND AMENDMENT TO FB MAIN STREET
A MASTER CONDOMINIUM SHOPPING CENTER LEASE AGREEMENT

THIS SECOND AMENDMENT TO FB MAIN STREET A MASTER CONDOMINIUM SHOPPING CENTER LEASE AGREEMENT (this "Amendment"), is made and entered into effective the 16th day of February, 2023, by and between the CITY OF FLOWERY BRANCH (hereinafter referred to as "Landlord") and EL SABOR COSTENO TAQUERIA, LLC, a limited liability company, (hereinafter referred to as "Tenant").

WHEREAS, Landlord and Tenant entered into that certain lease agreement dated May 9, 2022 (the "Original Lease"), for that certain property commonly known as 5519 Main Street, Suite 101, Flowery Branch, Georgia (the "Demised Premises"); and

WHEREAS, Landlord and Tenant desire to amend the Original Lease, on and subject to the terms and conditions set forth herein.

NOW, THEREFORE, AND IN CONSIDERATION of the sum of One and No/100 Dollars ($1.00), each to the other paid, the receipt and adequacy and sufficiency of which is hereby acknowledge, and the mutual covenants flowing between the parties hereto, the Original Lease is hereby amended as follows:

1. Recitals. Each of the foregoing recitals and representations in this Amendment form a material part of this Amendment and are incorporated herein by this reference, and such recitals and representations and the Original Lease are hereby ratified.

2. Basic Lease Provisions. Section 1.1. K. FIXED MINIMUM RENT COMMENCEMENT DATE is deleted in its entirety and replaced with the following: "Eleven (11) months following the Lease Commencement Date."

EXCEPT AS HEREIN PROVIDED, all other terms and conditions of the Original Lease shall remain the same and the parties hereto do hereby ratify the Original Lease.

IN WITNESS WHEREOF, Landlord and Tenant have carefully read and reviewed this Amendment and each term and provision contained herein, and by the execution of this Amendment shows their informed and voluntary consent thereto. The parties hereby agree that, at the time this Amendment is executed, the terms of this Amendment are commercially reasonable and effectuate the intent and purpose of Landlord and Tenant with respect to the Demised Premises.

This 16th day of February, 2023.

Signatures Next Page

LANDLORD: CITY OF FLOWERY BRANCH, GEORGIA

By: ________________________________
Edward R. Asbridge, Mayor

ATTEST:

____
Shelia Cooper, City Clerk

TENANT: EL SABOR COSTENO TAQUERIA, LLC

By: _________________________________
Armando Altamirano Emiliano, Member

Sworn to and subscribed before me
This _____ day of February, 2023.

____
NOTARY PUBLIC

My commission expires: _________

FB MAIN STREET

A MASTER CONDOMINIUM

SHOPPING CENTER

LEASE AGREEMENT

5519 Main Street

Suite 101

Flowery Branch, Georgia

LANDLORD: City of Flowery Branch

TENANT: El Sabor Costeno Taqueria, LLC

ARTICLE I. BASIC LEASE PROVISIONS
AND ENUMERATION OF EXHIBITS

SECTION 1.1. BASIC LEASE PROVISIONS

A.	DATE (for reference purposes):	May 9, 2022
B.	LANDLORD:	City of Flowery Branch, a Georgia municipal corporation
C.	LANDLORD'S ADDRESS:	5410 Pine Street Flowery Branch, Georgia 30542
D.	TENANT:	El Sabor Costeno Taqueria, LLC
E.	TENANT'S TRADE NAME:	El Sabor Costeno Taqueria
F.	TENANT'S NOTICE ADDRESS:	Armando Altamirano Emiliano 5467 Riverchase Drive Flowery Branch, GA 30542
G.	PHONE NUMBER AND EMAIL:	404-392-4149 Mando.alta@gmail.com
H.	POSSESSION DATE:	Upon delivery of a fully executed Lease and completion of Landlord's Work, if any.
I.	LEASE COMMENCEMENT DATE:	Upon delivery of a fully executed Lease and completion of Landlord's Work, if any.

J.	LEASE TERM:	Five (5) Years following the Rent Commencement Date.
K.	FIXED MINIMUM RENT COMMENCEMENT DATE:	Five (5) months following the Lease Commencement Date.
L.	FIXED MINIMUM RENT:	See Exhibit G for rent schedule.

M.	ESTIMATED ADDITIONAL MONTHLY RENT (for all relevant property expenses including but not limited to taxes, insurance, property management overhead and fee, maintenance, exterior building repairs and maintenance, and parking lot and landscaping maintenance):	$262.29 Notwithstanding anything contained in this Lease to the contrary, the Additional Monthly Rent shall be adjusted to actual expenses annually.
N.	ADVANCE RENT:	$2,622.91
	ADVANCE ADDITIONAL RENT:	$262.29
	SECURITY DEPOSIT:	$2,622.91 plus $262.29
	TOTAL AMOUNT DUE WITH LEASE:	$2,622.91 + $262.29 + $2,885.20
O.	GUARANTORS:	Armando Altamirano Emiliano
P.	USE:	For the use of a restaurant and for no other purpose.
Q.	HOURS OF OPERATION:	Tenant agrees to remain open during standard operating hours for a restaurant (11 a.m. to 9 p.m.) on a daily basis (Monday through Sunday) during the lease term and any extensions.
R.	APPROXIMATE SIZE OF LEASED PREMISES:	1259 Square Feet

S.	OPTION TO RENEW:	Subject to the conditions herein set forth. Tenant is hereby granted the option to renew the Term of this Lease (the "Renewal Option") for one (1) period of five (5) years (the "Renewal Term"), to commence at the expiration of the initial Term of this Lease. Tenant shall exercise the Renewal Option by delivering written notice of such election to Landlord at least six (6) months but no more than twelve (12) months prior to the expiration of the initial Term of this Lease. The renewal of this Lease shall be upon the same terms and conditions as this Lease, except: (a) the annual Minimum Guaranteed Rental during the Renewal Term shall be as shown on Exhibit G; (b) Tenant shall have no option to renew this Lease beyond the expiration of the Renewal Term; and (c) Tenant shall not have the right to assign the Renewal Option to any sublessee of the Leased Premises or assignee of the Lease, not may any such sublessee or assignee exercise or enjoy the benefit of such Renewal Option. Notwithstanding the foregoing, Tenant shall not have the right to exercise the Renewal Option, unless: (i) this Lease shall be in full force and effect on the date of the exercise of the Renewal Option and the date of the expiration of the original Term; and (ii) on the date of the exercise of the Renewal Option and the date of the expiration of the original Term there exist no default on the part of the Tenant under this Lease.

SECTION 1.2. SIGNIFICANCE OF BASIC LEASE PROVISIONS

Each reference in this Lease to any of the Basic Lease Provisions contained in Section 1.1 of this article shall be deemed and construed to incorporate all of the terms provided under each such basic lease provision.

SECTION 1.3. ENUMERATION OF EXHIBITS

The exhibits enumerated in this section and attached to this Lease are incorporated in this Lease by this reference and are to be construed as a part of this Lease.

Exhibit A.	Site Plan
Exhibit B.	Tenant's Work
Exhibit C.	Legal Description
Exhibit D.	Rules and Regulations
Exhibit E.	Sign Criteria
Exhibit F.	Lease Guarantee
Exhibit G.	Rent Schedule

ARTICLE II. LEASED PREMISES AND TERM

SECTION 2.1. SHOPPING CENTER

Landlord is the owner of a parcel of real estate, legally described on Exhibit C, located in 5519 Main Street, Flowery Branch, Georgia commonly known as the FB Main Street – a Master Condominium (the "Shopping Center"). It is agreed that the depiction of the Shopping Center on Exhibit A does not constitute a representation, covenant or warranty of any kind by Landlord. Landlord reserves the right to sell any portion or portions of the Shopping Center, such portion(s) thereafter shall not be included in the Shopping Center. Landlord reserves the right to change the number and location of buildings, building dimensions, the number of floors in any of the buildings, store dimensions, the identity and type of other stores and tenancies, and Landlord further reserves the right to locate kiosks and to make available common areas pursuant to the terms hereof, provided only that the Leased Premises as hereinafter defined shall be substantially as depicted on Exhibit A. Landlord further reserves the right to alter the Shopping Center, at Landlord's sole election, however, no such alteration shall materially impair the visibility or accessibility of Tenants Leased Premises.

SECTION 2.2. LEASED PREMISES

Landlord hereby leases and demises to Tenant, and Tenant hereby accepts from Landlord, subject to and with the benefit of the terms and provisions of this Lease, the store premises sometimes herein referred to as the "Leased Premises" as more particularly described as follows:

Suite 101 consisting of approximately 1,259 sq. ft. as shown on Exhibit "A".

Said Leased Premises shall extend from the exterior faces of all exterior walls and the center line of those walls separating the Leased Premises from adjacent leased premises in the Shopping Center.

SECTION 2.3. LEASE TERM

The Lease Term shall, commence on the Lease Commencement Date [Section 1.1.I.] and shall end on the last day of the last Lease Year (hereinafter "Termination Date"), unless sooner terminated.

SECTION 2.4. LEASE YEAR

The term "Lease Year" means a period of twelve (12) consecutive calendar months. The first full Lease Year shall begin on the Lease Commencement Date if the Lease Commencement Date shall occur on the first day of a calendar month; if not, then the first Lease Year shall commence upon the first day of the month next following the Lease Commencement Date. Each succeeding Lease Year shall commence upon the anniversary date of the first Lease Year.

SECTION 2.5. STATEMENT AS TO LEASE TERM

In the event the Lease Commencement Date and Termination Date of the Lease Term have not been determined, as of the date of execution hereof, Landlord and Tenant shall execute and deliver a written statement specifying therein the Lease Commencement Date and Termination Date of the Lease Term when determined.

SECTION 2.6. OBLIGATIONS OF TENANT BEFORE LEASE TERM BEGINS

Prior to the Possession Date, Tenant shall deliver to Landlord the required Certificate of Insurance (stated in Section 7.2). Prior to the Lease Commencement Date, and after first obtaining the prior written consent of Landlord, Tenant shall be permitted to install its leasehold improvements, fixtures and other equipment required by Tenant to conduct its business. Tenant shall observe and perform all of its obligations under this Lease, from the Possession Date [Section 1.1.H.] until the Lease Commencement Date [Section 1.1.I.], in the same manner as though the Lease Term began on the Possession Date, including but not limited to payment of Additional Rent as stated in Section 1.1.M. but excluding Fixed Minimum Rent. Landlord shall have no liability whatsoever for loss or damage to Tenant's leasehold improvements, fixtures, equipment or other property of Tenant or Tenant's contractors.

ARTICLE III. RENT AND OTHER TENANT CONTRIBUTIONS

SECTION 3.1. FIXED MINIMUM AND ADDITIONAL RENT

Tenant agrees to pay rent to Landlord, or to such other person or entity as Landlord may direct, without demand, at such place as Landlord may by notice in writing to Tenant, from time to time, direct, a fixed amount of rent (the "Fixed Minimum Rent"), and an amount of additional rent based upon certain expenses relating to the Leased Premises and the Shopping Center (the "Additional Rent") at the following rates and times and as set forth on Exhibit G:

(a) Fixed Minimum Rent shall be payable in advance in equal successive monthly installments on the first day of each calendar month included in this Lease Term. For any portion of a calendar month included at the beginning of said term, one-thirtieth (1/30) of such a monthly payment for each day of such portion shall be payable on the first day of such portion; and

(b) Additional Rent shall be payable as provided in Sections 3.5, 5.3 and 8.1.

SECTION 3.2. TAXES

Tenant shall pay to Landlord, as Additional Rent hereunder, Tenant's prorata share of any and all special assessments, transportation or environmental protection taxes or levy or similar tax or levy, and Tenant's prorata share of real estate taxes attributable to the Shopping Center paid annually by Landlord during the Lease Term, prorated for any partial Lease Year beginning on the Possession Date. Tenant's prorata share shall be based on the ratio of the total Floor Area of the Leased Premises to the total Floor Area on all floors of building space within the Shopping Center as of the assessment date for the particular special assessment, tax or levy, or real estate tax in question. Tenant shall also pay its prorata share of all expenses, including reasonable attorneys' fees, expenses, administrative hearing and court costs incurred in contesting or negotiating the amount, assessment or rate of any such real estate tax, special assessment, tax or levy. Should the state, or any political subdivision thereof or any governmental authority having jurisdiction thereover, impose a tax and/or assessment upon or against the rentals and/or other charges payable hereunder by Tenant to Landlord, either by way of substitution for the taxes and assessments levied or assessed against such land and such buildings, or in addition thereto, or impose an income or franchise tax in substitution for the general tax levied against such land and buildings, such taxes and/or assessments shall be deemed to constitute a tax and/or assessment against such land and such buildings for the purpose of this section. The annual charges for such assessments or taxes shall be paid in monthly installments on the first day of each calendar month in advance in an amount estimated by Landlord. Landlord shall furnish Tenant, upon Tenant's request, a statement of the assessments or taxes paid or incurred by Landlord for each calendar year of the Lease Term and thereupon there shall be an adjustment between Landlord and Tenant with payment to Landlord or credit to Tenant for future tax payments, as the case may be, to the end that Landlord shall receive the precise amount of Tenant's prorata share of such assessments and taxes for such period and no more. In the event any portion or portions of the Shopping Center are separately assessed, for purposes of the proration above, Tenant's proportionate share shall be the ratio of the total Floor Area of the Leased Premises to the total Floor Area of all floors of building space within the particular parcel assessed which includes the Leased Premises.

SECTION 3.3. SECURITY DEPOSIT

Tenant, contemporaneously with the execution of this Lease, has deposited with Landlord to secure the faithful performance by Tenant of all the covenants, conditions and agreements in this Lease set forth, and contained on the part of Tenant to be fulfilled, kept, observed and performed, such sum as set forth in Section 1.1 as a Security Deposit. Said deposit shall be held by Landlord, without liability for interest, as security for the faithful performance by Tenant of all the terms, covenants and conditions of this Lease, and Landlord may commingle the same with its other funds. Such interest, if any, may be retained as property of the Landlord, and will not be paid to the Tenant. Such Security Deposit or any portion thereof not previously applied may be applied to the curing of any default that may then exist under this Lease, without prejudice to any other remedy or remedies which Landlord may have on account thereof, and upon such application, Tenant shall pay Landlord on demand the amount so applied which shall be added to the Security Deposit so that the same may be restored to its original amount. In the event the Leased Premises are conveyed by Landlord, the deposit or any portion thereof not previously applied may be turned over to Landlord's grantee or successor, and in such event Tenant hereby releases Landlord from any and all liability with respect to the deposit and/or application or return and Tenant agrees to look to such grantee for such application or return. In the event Tenant shall faithfully fulfill, keep, perform and observe all the covenants, conditions and agreements in this Lease set forth and contained on the part of Tenant to be fulfilled, the sum deposited or the part or portion thereof not previously applied shall be returned to Tenant, without interest, no later than thirty (30) days after the expiration of the Term of this Lease or any renewal or extension thereof, provided Tenant has vacated the Leased Premises and surrendered possession thereof to Landlord at the expiration of said Term or any renewal thereof as provided herein.

ARTICLE IV. UTILITY SERVICES

SECTION 4.1. WATER, SEWER, ELECTRICITY AND GAS

Landlord has caused the necessary mains, conduits and other facilities to be provided to supply water, sewer, gas and electricity to the Shopping Center. Landlord shall provide gas service and facilities to Tenant, however, the same being the sole responsibility of Tenant. Tenant agrees to have all utility services transferred into Tenant's name on the Possession Date. If Tenant has not had any or all of the utilities transferred on the Possession Date, then Tenant agrees to pay Landlord, on demand, the actual cost paid by Landlord for such utilities, together with an administrative charge of One Hundred Fifty and no/100 Dollars ($150.00) for each such payment. Tenant shall pay for all electricity used in the Leased Premises and all water and sewer charges, and gas charges, if applicable, at its own cost and expense. In the event Landlord, who shall have the option to do so, shall elect to supply any one or more or all of said services, Tenant shall purchase the use of said services as are tendered by Landlord and shall pay the rates, including any established minimum charges, established by Landlord for such services, but the rate shall be no more than those charged by the public utility furnishing such services in the area. The charges for such services as are so furnished shall be deemed Additional Rent due and payable on the first day of the calendar month following rendition of a bill therefor. Landlord may discontinue furnishing such services if payment for same is not received by Landlord upon not less than five (5) days written notice, and no such discontinuation shall be deemed an eviction or render Landlord liable to Tenant for damages or relieve Tenant from performance of its obligations hereunder. In the event Landlord shall elect to furnish one or more of such services, from time to time, Landlord shall not be liable to Tenant in damages or otherwise if any one or more of said services is interrupted or terminated because of necessary repairs, installations, improvements or any cause beyond the control of Landlord. In any event, Landlord may cease to furnish any one or more of such services without any responsibility to Tenant, except to connect the service facilities with such other sources of supply as may be available for the services so discontinued. Tenant will not install any equipment which will exceed or overload the capacity of any utility facilities servicing the Leased Premises and if any equipment installed by Tenant shall require additional utility facilities, the same shall be installed and maintained at Tenant's expense in accordance with plans and specifications to be approved in writing by Landlord. In the event the Leased Premises are not separately metered for water and Tenant's use requires an excessive volume of water, at Landlord's discretion, a sub-meter will be installed at the Leased Premises at Tenant's expense.

SECTION 4.2. HEATING, VENTILATING AND COOLING

Tenant shall be solely responsible and shall pay for all charges rendered in connection with all heating, ventilating and cooling of the Leased Premises and shall promptly pay all bills for materials furnished or labor performed for Tenant or at Tenant's instance and request in connection with any repairs, replacements, alterations, improvements and installation of all fixtures and equipment in connection therewith on the Leased Premises, and shall keep said Leased Premises free from all claims for liens for work, labor or materials in connection therewith.

SECTION 4.3. OTHER SERVICES

In addition to the above and foregoing, Tenant shall be solely responsible for all garbage and sewage disposal and waste removal, janitorial and other services of any type or nature furnished to the Leased Premises, and shall pay promptly all bills for materials or labor performed in connection therewith. Tenant further covenants and agrees to keep the Leased Premises and the walks adjacent thereto at all times in a neat, clean and sanitary condition and free from snow, ice, waste or debris, and neither to commit or permit any waste or nuisance thereon.

ARTICLE V. COMMON AREAS AND FACILITIES

SECTION 5.1. COMMON AREAS AND FACILITIES

Landlord shall make available, from time to time, such areas and facilities of common benefit to the tenants and occupants of the Shopping Center as Landlord shall deem appropriate (the "Common Areas"). Landlord shall operate, manage, equip, light, insure, repair and maintain the Common Areas and facilities for their intended purposes in such manner as Landlord shall, in its sole discretion, determine, and may, from time to time, change the size, location and nature of any Common Areas and facilities and may make installations therein and move and remove such installation. Landlord shall have the right to close the Common Areas, or any part thereof, on such business days as Landlord deems necessary for the improvement, maintenance or repair of the Common Areas and on such nonbusiness days or during such nonbusiness hours as Landlord shall, in its sole discretion, determine.

SECTION 5.2. USE OF COMMON AREAS

Tenant and its permitted concessionaires, officers, employees, agents, customers and invitees shall have the nonexclusive right, in common with Landlord and all others to whom Landlord has or may hereafter grant such rights, to use the Common Areas as designated from time to time by Landlord, subject to such reasonable regulations as Landlord may from time to time impose, including the designation of specific areas in which vehicles owned by Tenant, its permitted concessionaires, officers, employees and agents must be parked. Tenant agrees to abide by such regulations and to use its best efforts to cause its permitted concessionaires, officers, employees, agents, customers and invitees to conform thereto. Landlord may at any time close temporarily any part of the Common Areas to make repairs or changes, to prevent the acquisition of public rights in such area or to discourage noncustomer parking, and may do such other acts in and to the Common Areas as in its reasonable judgment may be desirable to improve the convenience thereof. Tenant shall upon request furnish to Landlord the license numbers and description of the vehicles operated by Tenant and its permitted concessionaires, officers and employees. Tenant shall not at any time interfere with the rights of Landlord and other tenants, its and their permitted concessionaires, officers, employees, agents, customers and invitees, to use any part of the parking areas and other part of the Common Areas.

SECTION 5.3. CHARGE FOR COMMON AREAS AND FACILITIES

Tenant shall pay to the Landlord, as Additional Rent, in the manner provided in Section 5.5 Tenant's prorata share, as defined in Section 5.4, of Common Areas maintenance cost as hereinafter defined including the cost of Capital Improvements designed to protect the health and safety of the tenants in the Leased Premises and the Shopping Center.

Common Areas maintenance cost shall be deemed to include all costs and expenses of every kind and nature paid or incurred by Landlord during the Lease Term (including appropriate reserves) in operating, managing, equipping, policing and protecting (if and to the extent provided by Landlord), insuring, servicing (including heating, ventilating and cooling any enclosed mall, in the event Landlord elects to enclose any Common Areas), lighting, repairing, replacing and maintaining the Common Areas and facilities in the Shopping Center. Such costs and expenses shall include, but not be limited to, such maintaining and repairing as shall be required in Landlord's judgment to preserve the utility of the Common Areas in condition and status the same as it was at the time of the completion of the original construction and installation thereof; all exterior painting; all costs and expenses of security and fire protection; all costs of restriping, patching, repairing and maintaining parking areas, garages, entries, gutters and downspouts, the construction of new entries as required and work on roads, as needed, adjacent to the Shopping Center; pedestrian traffic direction and control; roof repairs; all costs and expenses of cleaning and removing of rubbish, dirt, debris, snow and ice; all costs and expenses of planting, maintaining, replanting and replacing flowers and landscaping; management fees; water and sewerage charges; premiums for liability and property damage, fire, extended coverage, malicious mischief, vandalism, workers' compensation and employer's liability, and any other casualty or risk insurance procured by Landlord in connection with Common Areas, wages, unemployment taxes, social security taxes, special assessments and personal property taxes attributable to the Common Areas; fees for audits, required licenses and permits; all costs and expenses incurred by Landlord in testing of sprinkler systems located in the Shopping Center, all charges for utility services for the Common Areas including all costs and expenses of maintaining lighting fixtures and providing electricity to the Common Areas and to Common Areas pole signage (including the cost of light bulbs and electric current); all costs, expenses, surcharges or other impositions or assessments incurred by Landlord in connection with environmental protection legislation or regulation assessed against or imposed on the Shopping Center or any part thereof with regard thereto; reasonable depreciation of equipment, machinery and facilities, rents paid for the leasing of equipment and finance charges paid under any installment purchase of equipment, machinery and facilities used in the operation of the Common Areas and administrative costs at the rate of Fifteen Percent (15%) of the total costs of operating and maintaining the Common Areas (except the appropriate reserves); and such other costs as Landlord may reasonably determine are required for the proper maintenance of the Common Areas, except that all Capital Improvement expenses shall be excluded therefrom.

SECTION 5.4. TENANT'S PRORATA SHARE

Tenant's prorata share of the Common Areas maintenance cost shall be determined by multiplying the total cost incurred or paid by Landlord by a fraction whose numerator is the gross leasable area of the Leased Premises as set forth in Section 2.2 and the denominator of which is the total square feet of gross leasable area within the Shopping Center. The "Gross Leasable Area" shall mean with respect to the Leased Premises and with respect to all other leasable areas, the number of square feet of floor area on all levels, including any mezzanines, basements, or balconies, but excluding "Common Areas" measured from the exterior face of exterior walls and/or the exterior face of service corridor walls, the exterior of building line from all frontage, and the center line of party walls. No deduction shall be made for columns, stairs, elevators, or any interior construction or equipment. Provided, however, for any Common Areas maintenance cost separately metered, billed to or paid directly by any Tenant, the floor area of such tenant space attributable to such Common Areas cost shall be deleted from the above proration for such separate cost. The Floor Area hereinabove provided shall not include the floor area of roof structures used for mechanical equipment.

SECTION 5.5. PAYMENT OF COMMON AREAS MAINTENANCE COST

The annual charges for Common Areas maintenance cost shall be paid in monthly installments on the first day of each calendar month in advance in an amount estimated by Landlord. Landlord shall furnish Tenant, upon Tenant's request, a statement in reasonable detail of the actual Common Areas maintenance cost paid or incurred by Landlord at the end of each calendar year and thereupon there shall be an adjustment between Landlord and Tenant with payment to Landlord or credit to Tenant against any current or future amounts due from Tenant to Landlord pursuant to this Lease, as the case may be, to the end that Landlord shall receive the precise amount of Tenant's prorata share of said costs for such period and no more.

ARTICLE VI. LANDLORD'S ADDITIONAL COVENANTS

SECTION 6.1. REPAIRS BY LANDLORD

Landlord covenants at its expense to keep the foundations and roof of the Leased Premises, and the structural soundness of the exterior walls thereof, in good order, repair and condition, unless any necessary work is required because of damage caused by any act, omission or negligence of Tenant, any permitted concessionaire or their respective employees, agents, invitees, licensees or contractors. Landlord shall not be required to commence any such repair until a reasonable time after written notice from Tenant that the same is necessary. The provisions of this section shall not apply in the case of damage or destruction by fire or other casualty or taking under the power of eminent domain, in which events the obligations of Landlord shall be controlled by Article VIII. Except as provided in this Section 6.1, Landlord shall not be obligated to make repairs, replacements or improvements of any kind upon the Leased Premises, or any equipment, facilities or fixtures contained therein, which shall be the responsibility of Tenant as hereinafter provided.

SECTION 6.2. QUIET ENJOYMENT

Landlord covenants and agrees that so long as Tenant has committed no default under this Lease, Tenant's peaceful and quiet possession of the Leased Premises during the Lease Term shall not be disturbed by Landlord or by anyone claiming by, through or under Landlord.

SECTION 6.3. LIMITATION ON RIGHT OF RECOVERY AGAINST LANDLORD

Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to Landlord's interest in the Shopping Center and any judgments rendered against Landlord shall be satisfied solely out of its interest in the Shopping Center. No personal judgment shall lie against Landlord upon extinguishment of its rights in the Shopping Center and any judgment so rendered shall not give rise to any right of execution or levy against Landlord's assets. The provisions hereof shall inure to Landlord's successors and assigns including any mortgagee of Landlord. The foregoing provisions are not intended to relieve Landlord from the performance of any of Landlord's obligations under the Lease, but only to limit the personal liability of Landlord in case of recovery of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant's rights to obtain injunctive relief or specific performance or to avail itself of any other right or remedy which may be awarded Tenant by law or under the Lease.

If Tenant claims or asserts that Landlord has violated or failed to perform a covenant of Landlord not to unreasonably withhold or delay Landlord's consent or approval, Tenant's sole remedy shall be an action for specific performance, declaratory judgment or injunction and in no event shall Tenant be entitled to any money damages for a breach of such covenant and in no event shall Tenant claim or assert any claim for any money damages in any action or by way of set off, defense or counterclaim, and Tenant hereby specifically waives the right to any money damages or other remedies.

ARTICLE VII. TENANT'S ADDITIONAL COVENANTS

SECTION 7.1. TENANT'S COVENANTS

Tenant covenants, at its expense, at all times during the Lease Term and at such further time as Tenant occupies the Leased Premises or any part thereof:

A. To perform promptly all of the obligations of Tenant set forth in this Lease; and pay when due the Fixed Minimum Rent, Additional Rent, and all charges, rates and other sums which by the terms of this Lease are to be paid by Tenant, without any right of recoupment, set-off, deduction or counterclaim whatsoever.

B. To open for business within thirty (30) days after the Lease Commencement Date; to use the Leased Premises only for the use provided in Section 1.1 and in compliance with the Rules and Regulations set forth in Exhibit D; not to use the Leased Premises for any exclusive use granted by Landlord to any other tenant in the Shopping Center; to keep its business located upon the Leased Premises open at all times throughout the term of this Lease during minimum Standard Operating Hours as set for in Section 1.1.Q; that it will not cease operations at said Leased Premises for a period of more than three (3) consecutive days or five (5) days in any Lease Year, without the express written consent of Landlord, which consent may be granted or withheld at Landlord's sole discretion, unless prevented from doing business therein by reason of applicable ordinances or other acts of governmental authority or acts of God.

C. Except for repairs required in Section 6.1 to be performed by Landlord, to keep the Leased Premises, including, but not limited to all partitions, doors, fixtures, equipment, apparatus and appurtenances thereof (including lighting, plumbing fixtures, sewer lines and the HVAC systems), clean, neat and safe, and in good order, repair and condition (including all necessary painting and decorating), and to keep all glass, including that in windows, doors, fixtures and skylights, clean and in good condition, and to replace glass which may be damaged or broken with glass of the same quality, damage by fire or other casualty covered by Landlord's insurance excepted. Tenant shall store all trash and garbage within the Leased Premises and arrange for the regular pickup of such trash and garbage at the Tenant's expense. Tenant shall not burn any trash or garbage at any time in or about the building and Tenant shall attend to the daily disposal thereof in the manner designated by Landlord. If Landlord shall provide any services or facilities for such pickup, the Tenant shall be obligated to use the same and shall pay a proportionate share of the actual cost thereof within ten (10) days after being billed therefor. (See Exhibit B "Landlord and Tenant's Work" for additional requirements.)

D. To make all repairs, alterations, additions or replacements to the Leased Premises required by any law or ordinance or any order or regulation of any public authority, or fire underwriters or underwriters' fire prevention engineers; to keep the Leased Premises equipped with all safety appliances so required because of such use; to procure any licenses and permits required for any such use; and to comply with the orders and regulations of all governmental authorities.

E. To the extent permissible by state law and except for Landlord's negligence or willful misconduct, Tenant waives and releases Landlord and Landlord's agents and employees from all claims for damage to person or property sustained by Tenant and/or any person claiming through Tenant resulting from any accident or occurrence in or upon the Leased Premises or the building of which it shall be a part, or any other part of the Shopping Center, including, but not limited to, claims for damage resulting from: (i) any equipment or appurtenances becoming out of repair; (ii) Landlord's failure to keep said building or the Leased Premises in repair; (iii) injury done or occasioned by wind, water or other natural elements; (iv) any defect in or failure of plumbing, heating or air conditioning equipment, electric wiring or installation thereof, gas, water and steam pipes, stairs, porches, railings or walks; (v) broken glass; (vi) the backing up of any sewer pipe or downspout; (vii) the bursting, leaking or running of any tank, tub, sink, water closet, waste pipe, drain or any other pipe or tank in, upon or about such building or Leased Premises; (viii) the escape of steam or hot water; (ix) water, snow or ice being upon or coming through the roof, skylight, trap door, stairs, walks or any other place upon or near such building or the Leased Premises or otherwise; (x) the falling of any fixture, plaster or stucco; and (xi) any act, omission or negligence of co-tenants or of other persons or occupants of said buildings or of adjoining or contiguous buildings or of owners of adjacent or contiguous property.

F. To permit Landlord and its agents, upon reasonable notice, except in the event of an emergency, to enter the Leased Premises at reasonable times for the purpose of inspecting same, making repairs, additions or alterations thereto or to the building in which the same are located and of showing the Leased Premises to prospective purchasers, lenders and tenants.

G. To remove, at the termination of this Lease or earlier vacation of the Leased Premises, such of Tenant's goods and effects as are not permanently affixed to the Leased Premises; to remove such of the alterations and additions made by Tenant as Landlord may request; to repair any damage caused by such removal; and peaceably to yield up the Leased Premises and all alterations and additions thereto (except such as Landlord has requested Tenant to remove) and all fixtures, furnishings, floor coverings and equipment which are permanently affixed to the Leased Premises which shall thereupon become the property of Landlord, in clean and good order, repair and condition, damage by fire or other unavoidable casualty and ordinary wear and tear excepted. Any personal property of Tenant not removed within five (5) days following such termination or earlier vacation of the Leased Premises shall, at Landlord's option, become the property of Landlord.

H. If any mortgagee or trustee named in any first mortgage or trust deed hereafter placed upon the Shopping Center or any portion thereof shall elect to subject and subordinate the rights and interests of the Tenant under this Lease (in whole or in part) to the lien of its mortgage or trust deed, the rights and interests of Tenant under this Lease shall be so subject and subordinate automatically without further action needing to occur, provided that the mortgagee or trustee shall agree in writing to recognize this Lease of Tenant in the event of foreclosure if Tenant is not in default. Any mortgagee or trustee may in the alternative elect to give some or all of the rights and interest of Tenant under this Lease priority over the lien of its mortgage or trust deed. This election of such mortgagee or trustee shall be binding upon Tenant whether this Lease is dated prior to or subsequent to the date of said mortgage or trust deed. Tenant shall execute and deliver whatever instruments may be required for such purposes, and in the event Tenant fails so to do within ten (10) days after demand in writing, Tenant does hereby make, constitute and irrevocably appoint Landlord as its attorney-in-fact and in its name, place and stead so to do.

I. To promptly furnish Landlord, from time to time, financial statements reflecting Tenant's current financial condition whenever requested by Landlord.

J. To give Landlord prompt written notice of any accident, casualty, damage or other similar occurrence in or to the Leased Premises or in or to the Common Areas of which Tenant has knowledge.

K. To pay on demand the prevailing party's expenses, including reasonable attorney's fees and court costs incurred either directly or indirectly in enforcing any obligation of either party under this Lease in curing any default by the other party as provided herein and in defending or otherwise participating in any legal proceedings initiated by or on behalf of either party against the other.

L. Not to make any nonstructural alterations, additions or improvements to the Leased Premises in excess of Five Thousand and no/100 Dollars ($5,000.00), nor to make any structural changes whatsoever without first obtaining Landlord's written consent.

M. Not to suffer or allow any mechanic's lien to be filed against the Leased Premises or the Shopping Center or any interest therein by reason of any work, labor, services or materials performed at or furnished to the Leased Premises. If any such mechanic's lien shall at any time be filed, Tenant shall forthwith cause the same to be discharged of record by payment, bond, order of a court of competent jurisdiction or otherwise, but Tenant shall have the right to contest any and all such liens, provided security satisfactory to Landlord is deposited with Landlord. If Tenant shall fail to contest the same with due diligence (having secured Landlord as herein provided) or shall fail to cause such lien to be discharged within thirty (30) days after being notified of the filing thereof and in any case before judgment of sale thereunder, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same by paying the amount claimed to be due or by bonding or other proceeding deemed appropriate by Landlord, and the amount so paid by Landlord and/or all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in procuring the discharge of such lien, shall be deemed to be Additional Rent and together with interest thereon as provided in Section 9.2 shall be due and payable by Tenant to Landlord on the first day of the next following month. Nothing in this Lease shall be construed as a consent on the part of the Landlord to subject Landlord's estate in the Leased Premises to any lien or liability under the mechanic's lien law of the state.

N. Not to affix or maintain upon the glass panes and supports of the show windows, doors and the exterior of the Leased Premises any signs, advertising placards, names, insignia, trademarks, descriptive material or any other such like item or items except such as shall have first received the written approval of Landlord as to size, type, color, location, copy, nature and display qualities. Anything to the contrary in this Lease notwithstanding, the Tenant shall not affix any sign to the roof of the Leased Premises.

SECTION 7.2. TENANT'S INSURANCE

Tenant covenants, at its expense, at all times during the Lease Term and at such further time as Tenant occupies the Leased Premises or any part thereof, to indemnify, save and hold Landlord and Landlord's agents harmless from and against all liability, injury, loss, cost, damage and/or expense (including reasonable attorneys' fees) in respect of any injury to, or death of, any person, and/or damage to, or loss or destruction of, any property while on the Leased Premises or any other part of the Shopping Center occasioned by any act or omission of Tenant, or anyone claiming by, through or under Tenant including without limitation, Tenant's agents, contractors, employees, licensees, and suppliers. Tenant further covenants to maintain, in responsible companies approved by Landlord, public liability insurance insuring Tenant and Landlord and Landlord's agents, as their interests may appear, as Additional Insured, against all claims, demands or actions for injury to or death of any one person in an amount of not less than One

Million Dollars ($1,000,000) and for injury or death of more than one person in any one occurrence in an amount of not less than One Million Dollars ($1,000,000) and for damage to property in an amount of not less than Five Hundred Thousand Dollars ($500,000) made by or on behalf of any persons, firm or corporation, arising from, related to, or connected with the conduct and operations of Tenant's business in the Leased Premises, and in addition, and in like amounts covering Tenant's contractual liability under the aforesaid indemnity and hold harmless clause; to carry like coverage against loss or damage by boiler or compressor or internal explosion of boilers or compressors, if there is a boiler or compressor in the Leased Premises; to maintain plate glass insurance covering all exterior plate glass in the Leased Premises and fire insurance with usual extended coverage endorsements covering all of Tenant's stock in trade, fixtures, furniture, furnishings, floor coverings and equipment in the Leased Premises. Tenant shall be responsible for and shall insure against damage to the buildings occasioned by theft of Tenant's property. All of said insurance shall be in form and in responsible companies satisfactory to Landlord and shall provide that it will not be subject to cancellation, termination or change except after at least thirty (30) days prior written notice to Landlord. *A duly executed Certificate of Insurance clearly stating the insurance requirements provided for herein, naming Landlord and Landlord's agent as Additional Insured (which shall evidence the insurer's waiver of subrogation) together with satisfactory evidence of the payment of the premium thereon, shall be deposited with Landlord on or before the date of delivery of the Leased Premises to Tenant and upon renewals of such policies, not less than thirty (30) days prior to the expiration of the term of such coverage;* and that if Tenant fails to comply with such requirements, Landlord may obtain such insurance and keep the same in effect, and Tenant shall pay Landlord the premium cost thereof upon demand.

SECTION 7.3. ASSIGNMENT OF LEASE

Tenant shall not mortgage, pledge or assign this Lease or sublet the whole or any part of the Leased Premises, or permit any other person to occupy same or any part thereof, without prior written consent of Landlord, which consent shall not be unreasonably withheld so long as the assignee or sublessee has equal or better credit and business experience. Any assignment or sub-letting, even with Landlord's consent, shall not relieve Tenant from liability for payment of Fixed Minimum Rent, Additional Rent and all charges, rates and other sums; or from the obligations of Tenant set forth in this Lease.

In the event any assignment or subletting, even with the consent of Landlord, results in rental income or other lease charges in an amount greater than that provided for in this Lease, then such excess shall belong to Landlord and shall be payable to Landlord as Additional Rent herein reserved. The acceptance of rent from any other person shall not be deemed to be a waiver of any of the agreements of this Lease, or to be a consent to any assignment for the benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior written consent of Landlord.

In the event Tenant wishes to assign this Lease and Landlord consents to such assignment, Landlord may charge a reasonable fee, not to exceed Seven Hundred Fifty and no/100 Dollars ($750.00), to help offset any costs Landlord may have in preparing such assignment, or in examining the information, financial statements, operating history, references, etc., necessary to effectuate same. If Tenant desires to assign the Lease or sublease all or part of the Leased Premises, Tenant shall submit to Landlord, at least sixty (60) days prior to the effective date of the proposed assignment or sublease, a written notice of its intent, which notice shall; (a) state the name of the proposed assignee or sublessee; (b) state the nature and character of the business of the proposed assignee or sublessee; (c) state the term, use, rental rate and other particulars of the proposed assignment or sublease, including, without limitation, evidence satisfactory to Landlord that the proposed assignee or sublessee is financially responsible and will immediately occupy and thereafter use the Leased Premises for the use stated in Section 1.1 and in accordance with Section 7.1.B; and (d) be accompanied by a copy of the proposed assignment or sublease documents. Upon receipt of said notice including items (a)—(d) above, Landlord shall have the right, at Landlord's sole discretion, within thirty (30) days after receipt of such notice, to approve or disapprove the proposed assignment or sublease, or to terminate this Lease effective as of the proposed effective date of the assignment or sublease (provided, however, that Tenant may nullify Landlord's termination right by withdrawing the proposed assignment or sublease). No assignee of the Lease or sublessee of the Leased Premises or any portion thereof may further assign or sublet the Leased Premises or any portion thereof. In the event Landlord consents to any assignment or subletting, any Renewal Options provided for in this Lease shall become null and void.

ARTICLE VIII. FIRE AND EXTENDED COVERAGE INSURANCE; DAMAGE OR EMINENT DOMAIN

SECTION 8.1. FIRE AND EXTENDED COVERAGE INSURANCE

From and after the Lease Commencement Date of the Lease and throughout the remainder of the Term of this Lease, Landlord shall procure and pay for windstorm, fire and extended coverage insurance, insuring the Shopping Center building in which the Leased Premises are located for such amount as Landlord's lender shall require, in a responsible insurance company authorized to do business in the State in which the Shopping Center exists. Such insurance policy may insure against loss or damage from fire, windstorm, tornado, hail, disaster, earthquake, vandalism, riot, malicious mischief (and including boiler insurance and war risk insurance if then available), insurance against floods if required by the Federal Flood Disaster Protection Act of 1973 and Regulations issued thereunder, and such other insurance as commonly, or in the judgment of Landlord prudently, maintained by those whose business, improvement to and use of the Leased Premises is similar to that of the Tenant. Such insurance may contain the so-called "Replacement Cost" or "Restoration Endorsement," a provision to the effect that the waiver of subrogation rights by the insured does not void the coverage, and such special endorsements as reasonably requested by Landlord. Tenant shall pay to Landlord, as Additional Rent hereunder, on the first day of each calendar month Tenant's prorata share of the premiums for said fire and extended coverage insurance, Tenant's prorata share to be the same as its prorata share of Common Areas expense.

SECTION 8.2. FIRE, EXPLOSION OR OTHER CASUALTY

In the event the Leased Premises are damaged by fire, explosion or any other casualty to an extent which is less than Fifty Percent (50%) of the cost of replacement of the Leased Premises, the damage shall promptly be repaired by Landlord at Landlord's expense, provided that Landlord shall not be obligated to expend for such repair an amount in excess of the insurance proceeds recovered or recoverable as a result of such damage, and that in no event shall Landlord be required to repair or replace Tenant's stock in trade, fixtures, furniture, furnishings, floor coverings and equipment. In the event of any such damage and (i) Landlord is not required to repair as hereinabove provided, or (ii) the Leased Premises shall be damaged to the extent of Fifty Percent (50%) or more of the cost of replacement, or (iii) the building of which the Leased Premises are a part is damaged to the extent of Twenty Five Percent (25%) or more of replacement, or (iv) the buildings (taken in the aggregate) in the Shopping Center shall be damaged to the extent of more than Twenty Five Percent (25%) of the aggregate cost of replacement, Landlord may elect either to repair or rebuild the Leased Premises or the building or buildings, or to terminate this Lease upon giving notice of such election in writing to Tenant within ninety (90) days after the occurrence of the event causing the damage. If the casualty, repairing or rebuilding shall render the Leased Premises untenable, in whole or in part, and the damage shall not have been due to the act or omission of Tenant, a proportionate abatement of the Fixed Minimum Rent shall be allowed from the date when the damage occurred until the date Landlord completes its work, plus the earlier of (i) sixty (60) days or (ii) the date Tenant reopens for business, however, Tenant shall pay all Additional Rent charges beginning on the date Landlord completes its works, said proportion to be computed on the basis of the relation which the gross square foot area of the space rendered untenable bears to the floor space of the Leased Premises. In the event the Leased Premises shall be damaged or destroyed and the same are not repaired or rebuilt by Landlord within three hundred sixty-five (365) days after the date of the damage or destruction, unless said repair is held up by Tenant, or in the event that Thirty Percent (30%) or more of the Gross Leasable Area of the Shopping Center shall be damaged or destroyed and the same is not repaired or rebuilt within four hundred fifty-five (455) days after the date of damage or destruction, or in the event of any material damage or destruction to the Leased Premises during the last year of the Lease Term, then, in such event, Tenant shall have the right to terminate this Lease upon written notice to Landlord.

SECTION 8.3. EMINENT DOMAIN

If the whole of the Leased Premises shall be taken by any public authority by the exercise, or under the threat of the exercise, of the power of eminent domain, the Lease Term shall cease as of the day the right to possession shall be taken by such public authority, and Tenant shall pay rent up to that date with an appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date the right of possession is taken. If less than all of the Floor Area of the Leased Premises shall be so taken, the Lease Term shall cease only on the parts so taken as of the day the right to possession shall be taken by such public authority, and Tenant shall pay rent up to that date with appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date the right to possession is taken and thereafter the Fixed Minimum Rent shall be equitably adjusted. Landlord shall, at its expense, make all necessary repairs or alterations to the basic building and exterior work so as to constitute the remaining premises a complete architectural unit, provided that Landlord shall not be obligated to undertake any such repairs and alterations if the cost thereof exceeds the award received by Landlord. If the Floor Area of the Leased Premises so taken leaves space no longer suitable for the use set forth in Section 1.1, then the Lease Term shall cease and Tenant shall pay rent up to the date the right to possession is taken, with an appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date of the taking of the right to possession. If more than Twenty Five Percent (25%) of the Floor Area of the building in which the Leased Premises are located, or more than Twenty Five Percent (25%) of the aggregate Floor Area of all buildings in the Shopping Center, shall be taken by the exercise, or under the threat of the exercise, of the power of eminent domain, Landlord may, by notice in writing to Tenant delivered on or before the day of surrendering the right to possession to the public authority, terminate this Lease and rent shall be paid or refunded as of the date of termination. In the event fifty percent (50%) of the Shopping Center is lost due to such taking and such taking significantly impairs Tenant's ability to do business in the Leased Premises, Tenant shall have the right to terminate this Lease by sending a written notice ("Termination Notice") to Landlord setting forth the grounds for such termination and setting a date for such termination ("Termination Date") at least ninety (90) days prior to such Termination Date. All compensation awarded for any taking under the power of eminent domain, whether for the whole or a part of the Leased Premises, shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in the value of the leasehold or to the fee of the Leased Premises or otherwise, and Tenant hereby assigns to Landlord all of Tenant's right, title and interest in and to any and all such compensation.

ARTICLE IX. DEFAULTS BY TENANT AND REMEDIES

SECTION 9.1. DEFAULTS BY TENANT

Without further notice, Landlord may terminate this Lease:

(i) five (5) days after notice of default, if any default by Tenant continues after notice of default, in case of nonpayment of rent or the nonpayment of any other charges or payments to be made hereunder by Tenant, for more than five (5) days (except no notice need be given for a monetary default occurring after the second such monetary default in any Lease Year); or

(ii) thirty (30) days after notice of default, if Tenant does not cure any nonmonetary default within a reasonable time, but in any event no later than thirty (30) days after notice of default; or

(iii) immediately if Tenant makes any assignment for the benefit of creditors, commits any act of bankruptcy or files or is subject to a petition under any bankruptcy or insolvency law, and if such a petition filed against Tenant is not dismissed within ninety (90) days; or

(iv) immediately if a receiver or similar officer becomes entitled to this leasehold; or

(v) immediately if Tenant's interest in this Lease is taken upon execution or other process of law in any action against Tenant; or

(vi) immediately if the Leased Premises are levied upon by any revenue officer or similar officer; or

(vii) immediately if Tenant does, or permits to be done, any act which creates a mechanic's lien or claim therefor against the land or building of which the Leased Premises are a part and Tenant does not comply with the provisions of Section 7.1.M; or

(viii) immediately if Tenant shall abandon, vacate or cease to continually operate its business within said Leased Premises during the term of this Lease for a period of more than three (3) consecutive days or five (5) days in any Lease Year; or

(ix) immediately if Tenant fails to open for business within thirty (30) days after the Lease Commencement Date.

Upon termination of this Lease, Landlord may re-enter the Leased Premises with or without process of law, using such force as may be necessary, and remove all persons, fixtures and chattels therefrom, and Landlord shall not be liable for any damages resulting therefrom. Upon such repossession of the Leased Premises, Landlord shall not be liable for any damages resulting therefrom. Upon such repossession of the Leased Premises, Landlord shall be entitled to recover as liquidated damages and not as a penalty, immediately and upon demand, a lump sum of money equal to (a) the value of the Fixed Minimum Rent and other sums provided herein to be paid by Tenant to Landlord for the remainder of the Lease Term where recoverable under applicable state law (the "Total Rent Amount") or (b) the Total Rent Amount, less the fair rental value of the Leased Premises for said period. Upon the happening of any one or more of the above-mentioned events, Landlord may repossess the Leased Premises by forcible entry or detainer suit, or otherwise, without demand or notice of any kind to Tenant (except as hereinabove expressly provided for) and without terminating this Lease, in which event Landlord may, but shall be under no obligation so to do, relet all or any part of the Leased Premises for such rent and upon such terms as shall be satisfactory to Landlord (including the right to relet the Leased Premises for a term greater or lesser than that remaining under the Lease Term, and the right to relet the Leased Premises as a part of a larger area, and the right to change the character or use made of the Leased Premises). For the purpose of such reletting, Landlord may decorate and make any repairs, changes, alterations or additions in or to the Leased Premises that may be necessary or convenient. If Landlord does not relet the Leased Premises, Tenant shall pay to Landlord on demand as liquidated damages and not as a penalty a sum equal to the amount of the Fixed Minimum Rent, and other sums provided herein to be paid by Tenant for the remainder of the Lease Term. If the Leased Premises are relet and a sufficient sum shall not be realized from such reletting, after paying all of the expenses of such decorations, repairs, changes, alterations, additions, the expenses of such reletting and the collection of the rent accruing therefrom, to satisfy the rent herein provided to be paid for the remainder of the Lease Term, Tenant shall pay to Landlord, on demand, any deficiency and Tenant agrees that Landlord may file suit from time to time to recover any sums falling due under the terms of this section. Any recovery under this section shall be without relief from valuation and appraisement laws.

SECTION 9.2. INTEREST ON LATE PAYMENT; LATE CHARGE

Any payment due Landlord by Tenant pursuant to the terms and conditions of this lease including but not limited to all Fixed Minimum Rent, and Additional Rent which shall not be paid when due shall bear interest at the maximum rate payable by Tenant under state law, or in the absence of a maximum rate, at the rate of Eighteen Percent (18%) per annum from the date when the same is payable under the terms of this Lease until the same shall be paid. In the event any monetary payment is made more than seven (7) days after its due date, Landlord shall be entitled to a late payment fee of ONE HUNDRED and no/100 DOLLARS ($100.00) in addition to such interest charge as hereinabove set forth.

SECTION 9.3. HOLDOVER BY TENANT

In the event Tenant remains in possession of the Leased Premises after the expiration of the tenancy created hereunder, and without the execution of a new lease, Tenant shall be deemed to be occupying the Leased Premises as a tenant from month-to-month at One Hundred Fifty Percent (150%) of the Fixed Minimum Rent subject to all the other conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy.

SECTION 9.4. LANDLORD'S RIGHT TO CURE DEFAULTS

Landlord may, but shall not be obligated to, cure at any time, without notice, any default by Tenant under this Lease at Tenant's expense. Such cost to be immediately reimbursed upon written notice from Landlord that such expense has been paid.

SECTION 9.5. EFFECT OF WAIVERS OF DEFAULT

No consent or waiver, expressed or implied, by Landlord to or of any breach of any covenant, condition or duty of Tenant shall be construed as a consent of waiver to or of any other breach of the same or other covenant, condition or duty.

SECTION 9.6. REMEDIES CUMULATIVE

No remedy herein or otherwise conferred upon or reserved to Landlord shall be considered to exclude or suspend any other remedy but the same shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute, and every power and remedy given by this Lease to Landlord may be exercised, from time to time, and so often as occasion may arise or as may be deemed expedient.

SECTION 9.7. TERMINATION OF TENANT'S ADDITIONAL RIGHTS

In consideration for the faithful observance of the terms of this Lease, and any extension hereof, Tenant has negotiated for (and Landlord has granted herein) certain option rights at Section 1.1.S. (referred to in this Section as "Tenant's Additional Rights"). For so long as no event of default occurs and remains uncured beyond the cure period, if any, set out in Section 9.1 of this Lease, Tenant's Additional Rights shall remain in full force and effect. However, should an event of default occur at any time during the term hereof or any extension(s) (and remain uncured beyond the applicable cure period, if any) Tenant's Additional Rights shall terminate, and the same shall be deemed null and void thereafter. Said termination shall occur as provided herein without further notice from Landlord, and Tenant's subsequent cure after the expiration of the appropriate cure period shall not reinstate or otherwise preserve Tenant's terminated rights.

ARTICLE X. MISCELLANEOUS PROVISIONS

SECTION 10.1. MUTUAL WAIVER OF SUBROGATION RIGHTS

Whenever (i) any loss, cost, damage or expense resulting from fire, explosion or any other casualty or occurrence is incurred by either of the parties to this Lease in connection with the Leased Premises, and (ii) such party is then covered in whole or in part by insurance with respect to such loss, cost, damage or expense, then the party so insured hereby releases the other party from any liability it may have on account of such loss, cost, damage or expense to the extent of any amount recovered by reason of such insurance and waives any right of subrogation which might otherwise exist in or accrue to any person or account thereof, provided that such release of liability and waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage or increase the cost thereof (provided that in the case of increased cost the other party shall have the right, within thirty (30) days following written notice, to pay such increased cost thereupon keeping such release and waiver in full force and effect).

SECTION 10.2. NOTICES FROM ONE PARTY TO THE OTHER

All notices provided for in the Lease shall be in writing and shall be deemed to be given (a) upon the earlier of (i) actual receipt; (ii) refusal thereof; or (iii) three (3) days after having been sent, if notice was sent by prepaid registered or certified mail, return receipt requested; or (b) one (1) day after having been sent, if notice was sent by a nationally recognized overnight courier service which requires the recipient to sign a receipt; addressed, if to Tenant, at the address of Tenant set forth in Section 1.1.F, or such other address as Tenant shall have last designated by notice in writing to Landlord (which written notice to Landlord must clearly be labeled "Change of Tenant's Address for Notice Purposes"), and if to Landlord, to the place then established for the payment of rent, or such other address as Landlord shall have last designated by notice in writing to Tenant. The customary receipt shall be conclusive evidence of such service.

SECTION 10.3. BROKERAGE

Tenant warrants that it has had no dealings with any broker in connection with this Lease other than the City of Flowery Branch and Landlord's broker, Oakhurst Realty Partners, and Janet Thomas of Century 21 Connect Realty, Tenant's Broker and covenants to pay, hold harmless and indemnify Landlord from and against any and all costs (including reasonable attorneys' fees), expense or liability for any compensation, commissions and charges claimed by any other broker or other agent with respect to this Lease or the negotiation thereof.

SECTION 10.4. RELATIONSHIP TO THE PARTIES

Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto or any other relationship, other than the relationship of Landlord and Tenant. Whenever herein the singular number is used, the same shall include the plural and the masculine gender shall include the feminine and neuter genders.

SECTION 10.5. ESTOPPEL CERTIFICATES

At any time and from time to time, Tenant agrees, upon request in writing from Landlord, to execute, acknowledge and deliver to Landlord no later than ten (10) days after such request, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), the dates through which the Fixed Minimum Rent, Additional Rent, and other charges have been paid, and making such other reasonable certifications as Landlord, Landlord's mortgagee or Landlord's potential mortgagee may require.

SECTION 10.6. APPLICABLE LAW AND CONSTRUCTION

The laws of the State in which the Shopping Center exists shall govern the validity, performance and enforcement of this Lease. The invalidity or unenforceability of any provision of this Lease shall not affect or impair any other provision. The headings of the several articles and sections contained herein are for convenience only and do not define, limit or construe the contents of such articles or sections.

SECTION 10.7. FORCE MAJEURE

Whenever a period of time is provided in this Lease for either party to do or perform any act or thing, said party shall not be liable or responsible for any delay due to strikes, lockouts, casualties, acts of God, war, governmental regulation or control or other causes beyond the reasonable control of said party, and in any such event said time period shall be extended for the amount of time said party is so delayed, provided that this section shall not apply to Tenant's covenants to pay Rent and other charges hereunder.

SECTION 10.8. EXECUTION OF LEASE BY LANDLORD

The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Leased Premises and this document becomes effective and binding only upon the execution and delivery hereof by Landlord and by Tenant. All negotiations, considerations, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord and Tenant, and no act or omission of any employee or other agent of Landlord or of Landlord's broker shall alter, change or modify any of the provisions hereof.

SECTION 10.9. BINDING EFFECT OF LEASE

The covenants, agreements and obligations herein contained, except as herein otherwise specifically provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. Landlord, at any time and from time to time, may make an assignment of its interest in this Lease, and in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by Landlord herein, Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

SECTION 10.10. SURVIVAL

All representations, warranties, covenants, conditions and agreements contained herein which either expressly survive the expiration or termination of this Lease or, by their nature, are to be performed or observed, in whole or in part, after the termination or expiration of this Lease, shall survive the termination or expiration of this Lease.

SECTION 10.11. NO MODIFICATION

This writing is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the parties having been incorporated herein. No course of prior dealings between the parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Lease. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the parties or their affiliates shall not be relevant or admissible to determine the meaning of any of the terms of this Lease. No representations, understandings or agreements have been made or relied upon in the making of this Lease other than those specifically set forth herein. This Lease can be modified only by a writing signed by the party against whom the modification is enforceable.

SECTION 10.12. SEVERABILITY

If any portion of any term or provision of this Lease, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

SECTION 10.13. SIGN CRITERIA

Within fifteen (15) days after full Lease execution, Tenant shall submit to Landlord two (2) sets of drawings for all proposed signage. The drawings shall clearly show location of sign on storefront elevation, graphics, colors and materials. No signs of any type or description shall be erected, placed or painted in or about the Leased Premises except those signs submitted to Landlord in writing and approved by Landlord in writing, and which signs are in conformity with all applicable laws, regulations, codes and ordinances and in conformity with Landlord's sign criteria as stated in Exhibit E (including without limitation restrictions on duration of posting of sale signs or other signs by Tenant) established for the Shopping Center. Landlord reserves the right to remove, at Tenant's expense, all signs other than signs approved in writing by Landlord under this Section 10.13, without notice to Tenant and without liability to Tenant for any damages sustained by Tenant as a result thereof, and Tenant shall repair any damage caused by such removal. Tenant shall have thirty (30) days from the Possession Date in which to install approved signage on the building facade or Tenant shall be deemed in default.

SECTION 10.14. SALES AND RENTAL TAX

Tenant covenants and agrees to pay to Landlord any and all sales and/or rental taxes imposed by the State in which the Shopping Center exists or any other governmental agency with respect to all Fixed Minimum Rent, Additional Rent, and all other payments of monies, including but not limited to, Common Areas maintenance charges and Real Estate Taxes paid by Tenant to Landlord pursuant to the terms of this Lease.

SECTION 10.15. FAILURE OF TENANT TO OPEN

If Tenant fails to open for business within three hundred and sixty (360) days after the Lease Commencement Date, then Landlord may terminate this Lease, at Landlord's option, and all monies paid to Landlord shall remain the property of Landlord.

SECTION 10.16. HAZARDOUS MATERIALS

Tenant shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances, or materials. Tenant shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into the Leased Premises any such materials or substances. Without limitation, hazardous substances and materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.A. §§ 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C.A. §§ 6901 et seq., and any applicable state or local laws and the regulations adopted under these acts. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional charges if such requirement applies to acts and/or omissions of the Tenant. In addition, Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of hazardous substances or materials on the Leased Premises. In all events, Tenant shall indemnify and hold Landlord harmless in the manner elsewhere provided in this Lease from any release of hazardous materials on the Leased Premises occurring while Tenant is in possession, or elsewhere if caused by Tenant or persons acting under Tenant. The within covenants shall survive the expiration or earlier termination of the Lease term.

Landlord, to the best of Landlord's knowledge and belief, states that there are no hazardous materials within the Leased Premises as of the date of this Lease.

Landlord acknowledges that materials potentially presenting a biohazard risk may be present on the site during the course of Tenant's business activities and that such biohazardous material will be collected and stored in containers using the universal biohazardous symbol in the Leased Premises prior to proper disposal. Tenant will at all times store such material in the required manner and shall assure that the material is disposed of as required by all governmental agencies. The parties acknowledge that Landlord shall not be responsible for the disposal or storage of any such materials and that in the event Landlord, its agents or employees shall enter the Leased Premises such party shall use best efforts and caution to deal in a reasonable manner with any such materials if required to do so.

SECTION 10.17. RIGHT TO RELOCATE

In the event Landlord shall add additional buildings to the Shopping Center or expand any of the buildings currently contained therein or renovate or reconfigure any part of the Shopping Center in the vicinity of the Leased Premises, Landlord shall have the right, subject to Tenant's right of termination as set forth below to relocate Tenant's operation to other premises (the "New Premises") in another part of the Shopping Center or building in accordance with the following:

Landlord shall notify Tenant, at least one hundred fifty (150) days prior to the proposed relocation date, of Landlord's intention to relocate Tenant's operation to the New Premises; the proposed relocation date and the size, configuration and location of the New Premises shall be set forth in Landlord's notice; and the New Premises shall be substantially the same in size and configuration as the Leased Premises described in the Lease.

In the event Landlord relocates Tenant and has completed the Tenant Improvements at Landlord's expense, Tenant shall enter into a new lease agreement with Landlord for a period of five (5) years under the same terms and conditions of this Lease.

In the event the New Premises described in Landlord's relocation notice are unacceptable to Tenant, Tenant shall have the right, exercisable by written notice to Landlord, given thirty (30) days following receipt of Landlord's relocation notice, to reject the relocation request. Upon Landlord's receipt of Tenant's rejection Landlord shall, in its sole discretion, have the right to terminate this Lease, such termination to be effective as of the proposed relocation date as set forth in Landlord's notice or to retract the relocation request and this Lease shall continue in full force and effect. Failure by Tenant to timely exercise such right shall be deemed a waiver with respect thereto and confirmation that the New Premises are acceptable to Tenant. Tenant shall have the right to accept the New Premises only for the unexpired term of this Lease.

Landlord has made no representation as to any additional improvements or stores or any existing stores in the Shopping Center and this provision does not create any rights of option, first refusal or otherwise with respect to any present or future space in the Shopping Center.

SECTION 10.18. AMERICANS WITH DISABILITIES ACT

Landlord agrees that at the time of delivery to Tenant all common areas, such as sidewalks and parking lots to the best of Landlord's knowledge will comply with the Americans with Disabilities Act of 1990 and the regulations promulgated thereunder. At Tenant's expense, Tenant agrees to design, furnish, and construct the Leased Premises to comply with the Americans with Disabilities Act of 1990.

Within ten (10) days after receipt, Landlord and Tenant shall advise the other party in writing, and provide the other with copies of (as applicable), any notices alleging violation of the Americans with Disabilities Act of 1990 ("ADA") relating to any portion of the Property or of the Leased Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Property or of the Leased Premises; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Property or the Leased Premises.

SECTION 10.19. RECORDATION

Neither this Lease nor a short form or memorandum thereof shall be recorded in the public records.

SECTION 10.20. LANDLORD'S RESTRICTIONS

Except as permitted by existing leases, Landlord, to the best of Landlord's ability, agrees that no part of the Shopping Center shall be occupied by an adult book or adult video store or other businesses which sell or display pornographic material, however, any sale of adult magazines or rental of adult videos in less than ten percent (10%) of the sales floor area of any tenant shall not be considered a violation of this agreement.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease the day and year first above written.

Date: 5/9/2022

LANDLORD: City of Flowery Branch, GA

Edward R. Asbridge

By: Edward R. Asbridge, Mayor

ATTEST:

Shelia Cooper

By: Shelia Cooper, City Clerk

Date: 5/5/2022

TENANT: El Sabor Costeno Taqueria, LLC

By: Armando Altamirano Emiliano

Sworn to and subscribed before me

this 5 day of May, 2022.

Tonya Caldwell Bailey

NOTARY PUBLIC

My Commission Expires: 11/24/2023

[NOTARY SEAL]

STATE OF GEORGIA NOTARY PUBLIC

TONYA CALDWELL BAILEY
Notary Public, Georgia
Dekalb County
My Commission Expires
November 24, 2023

EXHIBIT A
SITE PLAN

This Exhibit is solely for the purpose of showing the approximate location of the Leased Premises within the Shopping Center and for no other reason whatsoever. Landlord reserves the right to relocate, change, expand or delete parking spaces or parking areas, curb cuts, entrances, service areas, total building area, frontage, etc., including expansion or demolition of existing or new buildings.

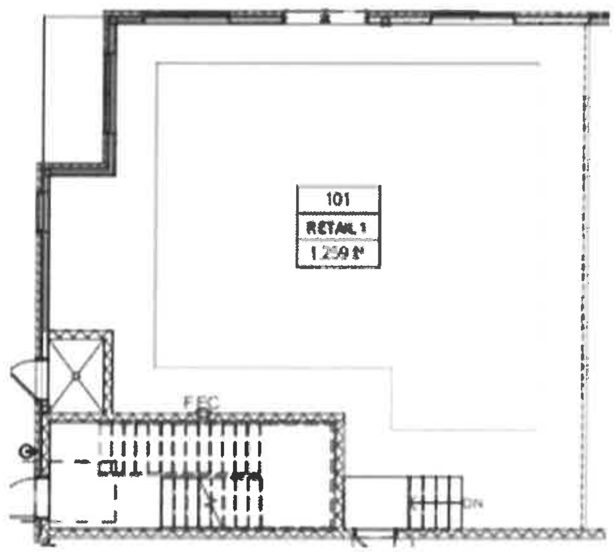


EXHIBIT B

LANDLORD AND TENANT'S WORK

Landlord's Work

1. Notwithstanding anything to the contrary contained herein, Tenant acknowledges and agrees to accept delivery of possession of the Leased Premises in the present "AS IS" condition, without any representation or warranty as to said condition, it being understood that Landlord has no obligation to perform any work or repairs in connection with the preparation of the Leased Premises for Tenant's occupancy, except as set forth below:

a. Landlord shall deliver the major components of the internal grease trap, sanitary sewer stub, ventilation chase for hood exhaust and an undistributed HVAC system in good working order.

2. Provided Tenant is not in default hereunder and shall have completed Tenant's Work in compliance with the plans and specifications approved by Landlord and in compliance with all governmental codes, ordinances and the terms hereof, Landlord shall pay to Tenant a sum up to Sixty Two Thousand, Nine Hundred Fifty and No/100 Dollars ($62,950.00) as a construction allowance (the "Tenant Improvement Allowance"), in no event to exceed the actual costs of improvements constituting Tenant's Work which are installed in the Leased Premises. The Tenant Improvement Allowance shall be paid by Landlord in four monthly installments at the following time: (a) completion of 25% of the Tenant Work; (b) completion of 50% of the Tenant Work; (c) completion of 75% Tenant Work; and (d) the date Tenant opens the Leased Premises to the public. The payment of all installments shall be subject to Landlord's inspection confirming the percentage of Tenant Work has been completed in compliance with all applicable laws, codes, rules, and regulations. Additionally, the payment of the final installment is conditioned upon the Tenant delivers to Landlord the following documentation: (i) a certificate of occupancy for the Leased Premises, (ii) waivers of lien in form and substance satisfactory to Landlord, (iii) paid invoices for Tenant's Work for which the Tenant Improvement Allowance will be or has been applied, (iv) proof of installation of a Landlord approved exterior sign on the Leased Premises which identifies Tenant's business. Any portion of the Tenant Improvement Allowance not utilized by Tenant in connection with initial improvement of the Leased Premises in accordance with the provisions of this Work Schedule shall be retained by Landlord for Landlord's benefit. No portion of the Tenant Improvement Allowance shall be applied toward Tenant's moving expenses, furniture, trade fixtures, equipment or any other personal property of Tenant. In the event of default under this Lease by Tenant, which default shall not have been fully cured by Tenant within any applicable cure period allowed under this Lease, any and all portions of the Tenant Improvement Allowance which shall have theretofore been disbursed to Tenant shall constitute additional rent and shall be immediately due and payable as such to Landlord.

3. During the construction of the Tenant Improvements, Landlord shall make disbursements of

the Tenant Improvement Allowance for the benefit of Tenant in installments as set forth in Paragraph 2 above and shall authorize the release of monies for the benefit of the Tenant as follows:

During the construction of the Tenant Improvements (or such other date as the Landlord may designate), Tenant shall deliver to Landlord: (a) a request for reimbursement of amounts paid to the contractor, approved by Tenant in a form to be provided by landlord, showing the schedule, by trade, of percentage of completion of the Tenant Improvements in the Premises, detailing the portion of the work completed and the portion not completed, (b) all invoices for labor rendered and materials for the Premises, (c) executed mechanic's lien releases as applicable, from all of Tenant's agents performing work in the Premises, and (d) all other information reasonably required by Landlord. Tenant's request for payment shall be deemed Tenant's acceptance and approval of the work furnished and/or the materials supplied as set forth in the Tenant's reimbursement request. Within thirty (30) days thereafter, Landlord shall deliver a check to Tenant made payable to Tenant in payment of the lesser of (i) the amounts so requested by Tenant as, or (ii) the balance of any remaining available portion of the Tenant Improvement Allowance balance provided that Landlord does not dispute any request for payment based on non-compliance of any work with the plans and specifications or due to any substandard work. Landlord's payment of such amounts shall not be deemed Landlord's approval or acceptance of the work furnished or materials supplies as set forth in Tenant's payment request. Upon completion of the construction of the Tenant Improvements, Tenant shall deliver to Landlord properly executed mechanic's liens for work furnished and/or the materials supplied.

Tenant's Work

1. Tenant agrees to submit to Landlord plans and specifications covering the Tenant Improvements in such detail as Landlord or Managing Agent may require within fifteen (15) days of execution of this Lease and Tenant agrees not to commence work on any of the Tenant Improvements until Landlord has approved such plans and specifications in writing. On or before the Possession Date, Tenant shall deposit with Landlord a certificate of insurance clearly stating the insurance requirements specified in Section 7.2, Tenant shall commence Tenant's Work and proceed diligently and continuously to completion, including installation of fixtures and equipment in the Leased Premises. At all times during Tenant's construction, Landlord and its representatives shall have the right to enter upon the Leased Premises for the purpose of inspecting construction and progress of the Tenant Improvements. Tenant, at its sole cost, shall complete all interior improvements needed to operate its business.

2. Heating and Air Conditioning Maintenance Provisions:

Tenant, at its sole cost, shall maintain the air conditioning (includes heating) units(s) for the Leased Premises in good condition and repair throughout the term of this Lease.

As a part of its air conditioning maintenance obligation, Tenant shall enter into an annual contract with an air conditioning repair firm, fully licensed to repair air conditioning units in the State in which the Shopping Center exists, which firm shall:

a. Regularly service the air conditioning unit(s) on the Leased Premises on a monthly basis, changing belts, filters and other parts as required; and supply Landlord with copies of the maintenance reports should Landlord request them to do so.

b. Perform energy and extraordinary repairs on the air conditioning unit(s).

c. Keep a detailed record of all services performed on the Leased Premises and prepare an annual service report to be furnished to the Tenant at the end of each calendar year.

Tenant shall furnish to Landlord at the end of each calendar year, a copy of said annual service report. Not later than thirty (30) days prior to the Lease Commencement Date of the term of this Lease and annually thereafter, Tenant shall furnish to Landlord a copy of the air conditioning maintenance contract described above, and proof that the annual premium for the maintenance contract has been paid. Nothing stated herein above shall limit Tenant's obligation to maintain the air conditioning unit(s) in good condition and repair throughout the Term of this Lease.

EXHIBIT C
LEGAL DESCRIPTION

All that tract or parcel of land lying and being in GMD 1270, City of Flowery Branch, Hall County, Georgia and being more particularly described as follows:

The Retail Master Unit of the FB Main Street Master Condominium, as established by the Declaration of Condominium for FB Main Street, A Master Condominium, of record in Deed Book 8924, Page 507-595, Hall County, Georgia records, together with the undivided percentage of interest in the Common Elements appurtenance to said Unit as set forth in Exhibit B of the Declaration of Condominium for FB Main Street, A Master Condominium. Reference is hereby made to the plat of FB Main Street, A Master Condominium of record in Plat Book 880, Page 440 in Plat Book 880, Pages 441-445 Hall County, Georgia records, for a more complete identification and description of the Retail Master Unit.

EXHIBIT D
RULES AND REGULATIONS

Tenant covenants and agrees that Tenant, at its own cost and expense:

(a) Will keep all exterior and interior store front surfaces clean and will maintain the rest of the Leased Premises and all corridors and loading areas immediately adjoining the Leased Premises in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests;

(b) Will not permit accumulations of any refuse, but will remove the same and keep such refuse in odor-proof, rat-proof containers within the interior of the Leased Premises shielded from the view of the general public until removed and will not burn any refuse whatsoever but will cause all such refuse to be removed by such person or companies, including Landlord, as may be designated in writing by Landlord and will pay all charges therefor, which shall in all events be competitive within the same geographical area for similar services performed by a reputable person or company; provided, however that Landlord may decline to designate any such person or company in which event all such refuse shall be removed by such person or company as Tenant, subject to Landlord's prior written approval, shall select;

(c) Will promptly replace, any plate glass or window glass of the Leased Premises which may become cracked or broken, with glass of a like kind and quality;

(d) Will not, without Landlord's prior written consent, place or maintain any merchandise or other articles in any vestibule or entry of the Leased Premises or within two (2) feet of any entrance from the Leased Premises, on the foot walk adjacent thereto or elsewhere on the exterior thereof;

(e) Will not use or permit the use of any apparatus, or sound reproduction or transmission, or any musical instrument in such manner that the sound so produced, transmitted or reproduced shall be audible beyond the confines of the Leased Premises, and will not use any other advertising medium, including without limitation flashing lights, or search lights which may be heard or seen outside of the Leased Premises;

(f) Will keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the confines of the Leased Premises;

(g) Will not cause or permit objectionable odors to emanate or be dispelled from the Leased Premises;

(h) Will not solicit business, distribute handbills or other advertising matter or hold demonstrations in the parking areas or other Common Areas;

(i) Will not permit the parking of delivery vehicles so as to interfere with the use of any driveway, walk, parking area, or other Common Areas in the Shopping Center;

(j) Will comply with all laws, rules, regulations, guidelines, orders and ordinances of applicable federal, state and local governmental authorities, commissions, boards and agencies with respect to this Lease, the use of Leased Premises or any work to be performed in the Leased Premises by Tenant and Tenant shall secure all permits, leases and approvals required for Tenant's use of the Leased Premises. In addition, Tenant shall also comply with all recommendations of the Association of Fire Underwriters, Factory Mutual Insurance Companies, the Insurance Services Organization, or other similar body establishing standards for fire insurance ratings with respect to the use occupancy of the Leased Premises by Tenant, and will participate in periodic fire brigade instructions and drills at the request of Landlord and will supply, maintain, repair and replace for the Leased Premises any fire extinguisher or other fire prevention equipment and safety equipment (including insulation of approved hoods and ducts if cooking activity is conducted in the Leased Premises) required by the aforementioned rules, regulations and associations or other body in order to obtain insurance at the lowest available premium rate throughout the Term of the Lease;

(k) Will keep all outside areas immediately adjoining the Leased Premises including, but not limited to, sidewalks and loading docks free from ice and snow and Tenant hereby agrees that Tenant is solely liable for any accidents occurring on said outside areas due or alleged to be due to any accumulation of ice and snow;

(l) Will not use the plumbing facilities for any other purpose than that for which they are constructed and will not permit any foreign substance of any kind to be thrown therein and the expense of repairing any breakage, stoppage, seepage or damage, whether occurring on or off the Leased Premises, resulting from a violation of this provision by Tenant or Tenant's employees, agents or invitees shall be borne by Tenant. All grease traps and other plumbing traps shall be kept clean and operable by Tenant at Tenant's own cost and expense;

(m) Will not permit any shopping carts in the Common Areas even if taken there by customers;

(n) Will not place or cause or permit to be placed within the Leased Premises, pay telephones, vending machines (except those for the exclusive use of this Tenant's employees) or amusement devices of any kind without the prior written consent of Landlord;

(o) Will comply with all obligations of the FB Main Street – A Master Condominium Declaration of Covenants and By-Laws.

EXHIBIT E
SIGN CRITERIA

Signs shall be furnished and installed by Tenant according to the following:

1. Landlord may erect and maintain such suitable signs or signage as Landlord, in its sole discretion, may deem appropriate to advertise the Premises.

2. Tenant may erect and maintain, at its sole cost and expense, not more than one (1) sign upon the exterior of the Premises, identifying Tenant's business by name. No such sign erected by Tenant shall contain a listing of merchandise or service or any slogan related to Tenant's business.

3. Tenant shall submit sign layout to Landlord for approval prior to its fabrication and installation.

4. All signs and sign locations must be approved by Landlord prior to installation, and Landlord reserves the right, in its sole discretion, to reject any sign proposed by Tenant that does not meet Landlord's requirements.

5. All signs must comply with applicable government regulations and requirements, and Tenant shall keep all signs property maintained and in good working order.

6. Care should be taken to prevent damage to the façade during sign installation.

7. Signage shall be installed in a manner so as not to create leaks through penetrations of the façade.

8. All permits and licenses for sign installation shall be the responsibility of Tenant or sign contractor.

EXHIBIT F

GUARANTY OF LEASE

LANDLORD:	CITY OF FLOWERY BRANCH, GEORGIA
TENTANT:	EL SABOR COSTENO TAQUERIA, LLC
LEASE DATE:	

GUARANTY

FOR VALUE RECEIVED, and in consideration of, and as an inducement for the execution and delivery of the Lease dated above, for demising store premises in the FB Main Street – A Master Condominium Shopping Center (hereinafter called the "Lease"), by and between CITY OF FLOWERY BRANCH, GEORGIA, (hereinafter called "Landlord"), and EL SABOR COSTENO TAQUERIA, LLC, (hereinafter called "Tenant"), the undersigned, Armando Altamirano Emiliano an individual, (hereinafter called "Guarantor"), hereby guarantees to Landlord, its successors and assigns, the full and prompt payment of rent, including, but not limited to, the Fixed Minimum Rent, Additional Rent and any and all other sums and charges payable by Tenant, its successors and assigns, under said Lease, including specifically, but not by way of limitation, real estate taxes, insurance premiums, Common Areas and facilities charges, utility charges, heating, ventilating and cooling charges, air conditioning service charges, charge for heating, and Tenant's share of special assessments, and further hereby guarantees the full and timely performance and observance of all the covenants, terms, conditions and agreements herein provided to be performed and observed by Tenant, its successors and assigns; and Guarantor hereby covenants and agrees to and with Landlord, its successors and assigns, that if default shall at any time be made by Tenant, its successors and assigns, in the payment of any such Fixed Minimum Rent, Additional Rent and any and all other sums and charges payable by Tenant, its successors and assigns, under said Lease, including specifically, but not by way of limitation, real estate taxes, insurance premiums, Common Areas and facilities charges, utility charges, heating, ventilating and cooling charges, air conditioning service charges, charge for heating, and Tenant's share of special assessments, or if Tenant should default in the performance and observance of any of the terms, covenants, provisions or conditions contained in said Lease, Guarantor will forthwith pay such Fixed Minimum Rent, Additional Rent and other such sums and charges to Landlord, its successors and assigns, and any arrearages thereof, and will forthwith faithfully perform and fulfill all of such terms, covenants, conditions and provisions, and will forthwith pay to Landlord all damages that may arise in consequence of any default by Tenant, its successors and assigns, under said Lease, including, without limitation, all reasonable attorneys' fees, disbursements incurred by Landlord or caused by any such default and/or by the enforcement of this Guaranty.

This Guaranty is an absolute and unconditional guarantee of payment and of performance. It shall be enforceable against Guarantor without the necessity of any suit or proceedings on Landlord's part of any kind or nature whatsoever against Tenant, its successors and assigns, and without the necessity of any notice of nonpayment, nonperformance or nonobservance or of any notice of acceptance of this Guaranty or of any other notice or demand to which Guarantor hereby expressly waives; and Guarantor hereby expressly agrees that the validity of this Guaranty and the obligations of Guarantor hereunder shall in nowise be terminated, affected, diminished or impaired by reason of the assertion or the failure to assert by Landlord against Tenant, or against Tenant's successors and assigns, of any of the rights or remedies reserved to Landlord pursuant to the provisions of said Lease.

This Guaranty shall be a continuing guaranty and the liability of Guarantor hereunder shall in no way be affected, modified or diminished by reason of any assignment, renewal, modification or extension of the Lease or by reason of any modification or waiver of or change in any of the terms, covenants, conditions or provisions of the Lease, or by reason of any extension of time that may be granted by Landlord to Tenant, its successors or assigns, or a changed or different use of the Leased Premises consented to in writing by Landlord, or by reason of any dealings or transactions or matter or thing occurring between Landlord and Tenant, its successors or assigns, whether or not notice thereof is given to Guarantor. Guarantor shall promptly furnish Landlord, from time to time, financial statements reflecting Tenant's current financial condition whenever requested by Landlord.

Landlord's consent to any assignment or assignments, and successive assignments by Tenant, of the Lease made either with or without notice to Guarantor shall in no manner whatsoever release Guarantor from any liability as Guarantor.

The assignment by Landlord of the Lease and/or the avails and proceeds thereof made either with or without notice to Guarantor shall in no manner whatsoever release Guarantor from any liability as Guarantor.

All of Landlord's rights and remedies under the said Lease or under this Guaranty are intended to be distinct, separate and cumulative and no such right and remedy therein or herein mentioned is intended to be in exclusion of or a waiver of any of the others. If there is more than one Guarantor hereunder, each Guarantor is jointly and severally liable hereunder, and they are collectively herein referred to as the Guarantor.

IN WITNESS WHEREOF, the undersigned Guarantor has executed this Guaranty the date above set forth.

GUARANTOR(S):

Armando Altamirano Emiliano

By: ______________________________
an Individual
Address: 5467 Riverchase Dr. Flowery Branch, GA. 30542
Social Security Number: 70596 2008
Sworn to and subscribed before me
this 5 day of May, 2022.

____
NOTARY PUBLIC

My Commission Expires: 11/24/2023

[SEAL]

STATE OF GEORGIA NOTARY PUBLIC
TONYA CALDWELL BAILEY
Notary Public, Georgia
Dekalb County
My Commission Expires
November 24, 2023

EXHIBIT G
RENT SCHEDULE

The following schedule shall begin on the Fixed Minimum Rent Commencement Date. Notwithstanding the foregoing, beginning on the Possession Date Tenant shall begin the payment of Tenant's prorata share of Additional Rent as shown in Section 1.1.M.

LEASE TERM

Term	Monthly Fixed Minimum Rent	Annual Fixed Minimum Rent	Additional Rent
Months 1 – *12*	$2,622.91	$31,474.92	Full Amount Due Under the
Months 13 – *24*	$2,701.60	$32,419.17	Full Amount Due Under the
Months 25 – 36	$2,782.65	$33,391.74	Full Amount Due Under the
Months 37 – 48	$2,866.12	$34,393.49	Full Amount Due Under the
Months 49 – 60	$2,952.11	$35,425.30	Full Amount Due Under the

FIRST OPTION

Term	Monthly Fixed Minimum Rent	Annual Fixed Minimum Rent	Additional Rent
Months 61 – 72	$3,040.67	$36,488.06	Full Amount Due Under the
Months 73 - 84	$3,131.89	$37,582.70	Full Amount Due Under the
Months 85 - 96	$3,225.85	$38,710.18	Full Amount Due Under the
Months 97 – 108	$3,322.62	$39,871.18	Full Amount Due Under the

Months 109 -	$3,422.30	$41,067.63	Full Amount Due Under the

FIRST AMENDMENT TO FB MAIN STREET
A MASTER CONDOMINIUM SHOPPING CENTER LEASE AGREEMENT

THIS FIRST AMENDMENT TO FB MAIN STREET A MASTER CONDOMINIUM SHOPPING CENTER LEASE AGREEMENT (this "Amendment"), is made and entered into effective the 6th day of October, 2022, by and between the CITY OF FLOWERY BRANCH (hereinafter referred to as "Landlord") and EL SABOR COSTENO TAQUERIA, LLC, a limited liability company, (hereinafter referred to as "Tenant").

WHEREAS, Landlord and Tenant entered into that certain lease agreement dated May 9, 2022 (the "Original Lease"), for that certain property commonly known as 5519 Main Street, Suite 101, Flowery Branch, Georgia (the "Demised Premises"); and

WHEREAS, Landlord and Tenant desire to amend the Original Lease, on and subject to the terms and conditions set forth herein.

NOW, THEREFORE, AND IN CONSIDERATION of the sum of One and No/100 Dollars ($1.00), each to the other paid, the receipt and adequacy and sufficiency of which is hereby acknowledge, and the mutual covenants flowing between the parties hereto, the Original Lease is hereby amended as follows:

1. Recitals. Each of the foregoing recitals and representations in this Amendment form a material part of this Amendment and are incorporated herein by this reference, and such recitals and representations and the Original Lease are hereby ratified.

2. Basic Lease Provisions. Section 1.1. K. FIXED MINIMUM RENT COMMENCEMENT DATE is deleted in its entirety and replaced with the following: "Eight (8) months following the Lease Commencement Date."

EXCEPT AS HEREIN PROVIDED, all other terms and conditions of the Original Lease shall remain the same and the parties hereto do hereby ratify the Original Lease.

IN WITNESS WHEREOF, Landlord and Tenant have carefully read and reviewed this Amendment and each term and provision contained herein, and by the execution of this Amendment shows their informed and voluntary consent thereto. The parties hereby agree that, at the time this Amendment is executed, the terms of this Amendment are commercially reasonable and effectuate the intent and purpose of Landlord and Tenant with respect to the Demised Premises.

This 6th day of October, 2022.

Signatures Next Page

LANDLORD: CITY OF FLOWERY BRANCH, GEORGIA

By: ______________________________
Edward R. Asbridge, Mayor

ATTEST:

____
Shelia Cooper, City Clerk

TENANT: EL SABOR COSTENO TAQUERIA, LLC

By: ______________________________
Armando Altamirano Emiliano, Member

Sworn to and subscribed before me
This 12 day of October, 2022.

____
NOTARY PUBLIC
My commission expires: April 1, 2025

Nancy Galvan Rodriguez
NOTARY PUBLIC
Hall County, Georgia
My Commission Expires
April 1, 2025