

This instrument prepared by:
City of Gainesville
P.O. Box 1110
Gainesville, FL 32602-1110

CIRCUIT COURT CLERK
J.K. "Buddy" Irby
ALACHUA COUNTY, FL
Date 03/22/1999 15:31
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DTAX 0.70

Easement for Air Rights

This agreement ("Agreement") is made on March 11, 1999, between the Gainesville Community Redevelopment Agency, a public body corporate and politic ("Grantor") and McGurn Investment Company, a Florida Corporation ("Grantee")

Recitals

Grantor and Grantee have executed an Agreement for Development of Property, dated August 24, 1998, wherein Grantor has agreed to convey an easement for air rights to accommodate an over-street walkway between property to be developed as "Union Street Station," located at 201 SE 1st Street and an existing parking garage, located at 220 SE 2nd Avenue; and

Pursuant to § 163.380, Fla. Stat., Grantor has advertised for and accepted proposals for the use of the air space, and has approved the proposal submitted by Grantee; and

Grantor and Grantee desire to limit the use and occupancy of the airspace to a pedestrian walkway under the terms and conditions set forth in this agreement;

In consideration of the covenants, conditions and agreements contained below, the parties agree as follows:

1. The foregoing recitals are incorporated here by reference as though fully set forth here as agreements of the parties.
2. Grantor grants to Grantee an exclusive easement appurtenant ("Easement") in certain air rights for the benefit of Grantee's parcels and use by Grantee for the construction, operation and maintenance of a pedestrian walkway within the area described as follows and as further depicted on Attachment "A" to this Agreement:

Air rights commencing 17.55 feet and ending 45 feet above the highest point on the street lying within the following described parcel of property ("Premises") lying and being in Section 4, Township 10 South, Range 20 East, Alachua County, Florida:

Commence at a found nail and disk marking the southwest corner of Block 4, Range 1 of the Map of Gainesville, Florida, as recorded in Deed Book "H", Page 383 of the Public Records of Alachua County, Florida and the North Right-of-Way Line of Southeast 2nd Place; thence along said North Line North 88 degrees, 44' 25" East a distance of 207.76 feet to a found nail and disk marking the West Right-of-Way Line of Southeast 2nd Street; thence North 01 degrees 52' 24" West a distance of 171.70 feet to a found nail and disk marking a point on the South Right-of-Way Line of Southeast 2nd Avenue and the Point of Beginning, thence along said Right-of-Way Line South 88 degrees 54' 57" West a distance of 7.86



feet, thence North 11 degrees 32'28" East a distance of 68.59 feet to the North Right-of-Way Line of said Southeast 2nd Avenue, thence along said Right-of-Way Line North 89 degrees 01'47" East a distance of 17.41 feet, thence South 11 degrees 32'28" West a distance of 68.56 feet to a point on said South Right-of-Way Line, thence along said Line South 88 degrees 57'02" West a distance of 9.56 feet to the Point of Beginning, containing 1,165 square feet more or less.

Grantor also grants to Grantee reasonable rights of ingress and egress upon the Premises as are necessary for the construction, maintenance, repair or replacement of the walkway, subject to normal coordination with the City for any necessary closing of all or part of the street. The Easement shall remain in existence unless terminated as provided in this document.

3. The term of this Agreement commences with the execution date of this Agreement and expires in accordance with the provisions contained in paragraphs 9 and 10 below.

4. Subject to the rights of Grantee pursuant to the terms of this Agreement, the City of Gainesville, its successors and assigns, reserves the right to the full use and enjoyment of the Premises for use as a public right-of-way.

5. Grantee shall be solely responsible for the use and enjoyment of the Easement and shall indemnify and hold Grantor and the City of Gainesville, their elected and appointed officials, employees and agents harmless from all costs, attorneys' fees and claims of damage to person, property or premises resulting from the use, occupancy and possession of the air rights over the Premises by Grantee or the rights of ingress and egress over the Premises as provided in paragraph 2.

6. Grantee shall provide Grantor with a certificate of insurance evidencing Grantor and the City of Gainesville as additional insureds on Grantee's comprehensive liability insurance policies prior to Grantee commencing construction of the walkway in amounts satisfactory to Grantor. Furthermore, Grantee shall maintain that certificate in full force, and provide evidence when requested, for the duration of the Easement.

7. Grantee shall at all times maintain the walkway in good repair and in safe condition; furthermore, Grantee shall also comply with all other laws, ordinances and regulations pertaining to the location, use, and occupancy of the walkway. In the event of an emergency where the walkway is damaged in a way that imperils the public safety, the City, after a reasonable attempt to notify Grantee, may repair or remove the walkway and charge Grantee for such repair or removal. Grantee agrees to pay for such emergency repair or removal within 30 days of receipt of invoice.

8. In the event the Premises are subjected to ad valorem taxation or fees by any governmental entity as a consequence of this Agreement, Grantee, upon receipt of Grantor's written notice and demand, shall promptly pay that tax or fee and provide Grantor with evidence of that payment. Grantee may however contest the imposition of ad valorem tax and Grantor shall cooperate with Grantee in any such contest.

9. In the event of substantial destruction of the walkway, Grantee shall serve Grantor with written notice of Grantee's election whether or not it chooses to rebuild the walkway and of its need to use the air space which is the subject of the Easement. If Grantee elects not to rebuild the walkway, or if Grantee does not so elect within 90 days, or if Grantee does not commence to so rebuild within 12 months of the date of destruction, or if any Mortgagee or Condominium Association does not elect to cure pursuant to paragraph 12 below, the Easement and any rights

that Grantee shall possess by virtue of this Agreement shall automatically cease and terminate without further notice.

10. In the event of Grantee's noncompliance with any of the specific conditions and restrictions contained in this Agreement, Grantee, upon receipt of Grantor's written notice and demand for compliance, shall provide Grantor with evidence of Grantee's compliance within 90 days of said receipt. If compliance cannot be reasonably completed within said 90 days, Grantee shall provide Grantor with evidence that work toward compliance has commenced and that compliance will be complete within a reasonable time. In the event Grantee fails to submit such evidence of compliance to Grantor within the time allowed, and if any Mortgagee or Condominium Association does not elect to cure the condition pursuant to paragraph 12 below, the Easement and any rights that Grantee shall possess by virtue of this Agreement shall automatically cease and terminate without further notice.

11. Any rights derived by Grantee pursuant to this Agreement shall be solely for Grantee, its successors and assigns.

12. Grantor acknowledges that Grantee shall be mortgaging the Union Street Station property, which includes the over-street walkway, and collaterally assigning all rights of Grantee under this Agreement, to a financial institution. Grantor further acknowledges that Grantee may create one or more condominiums on all or a portion of the Union Street Station property, that the over-street walkway might be common area and that all or part of Grantee's rights under this Agreement might be assigned to the Condominium Association(s). Grantee shall not encumber the over-the-street walkway or assign all or part of Grantee's rights under this Agreement without the written consent of the Grantor, which shall not be unreasonably withheld or delayed. Grantor shall not impose any additional obligations, requirements, costs or fees merely as a condition of such consent.

If Grantee creates one or more Condominium Associations, it shall include in the condominium documents a requirement that upon assignment of this Agreement to the association(s), the association(s) must assume all obligations of Grantee under this Agreement, including but not limited to providing indemnification and proof of insurance pursuant to paragraphs 5 and 6.

Grantor agrees not to terminate this Agreement in the event of default or substantial destruction of the over-street walkway without providing 60 days written notice to any Mortgagee or Condominium Association(s). Said Mortgagee or Condominium Association(s) shall give Grantor written notice of its election to cure or rebuild within the 60 day notice period and shall be granted a reasonable time to cure the default and/or commence rebuilding. Grantor may terminate this Agreement if such notice is not received or if the cure or rebuilding has not been completed within a reasonable time.

13. Grantor agrees not to amend or accept a surrender of this Agreement without the prior written permission of any Mortgagee or Condominium Association(s) consented to by the Grantor pursuant to paragraph 12, which permission shall not be unreasonably withheld or delayed.

14. No provision of this Agreement nor any act of the City of Gainesville or Grantor shall be deemed or construed by any of the parties, or by third parties, to create any relationship of third-party beneficiary, or of principal or agent, or of limited or general partnership, or of joint venture, or of any association or relationship involving the City of Gainesville or Grantor.

15. All notices pursuant to this Agreement shall be by certified mail, return receipt requested, addressed to the following:

If to Grantor: Executive Director
Community Redevelopment Agency
P.O. Box 490
Gainesville, Florida 32602

With a copy to: City Attorney's Office
P.O. Box 1110
Gainesville, Florida 32602

If to Grantee: McGurn Investment Company
P.O. Box 2900
Gainesville, Florida 32602

16. The terms of this Agreement shall be construed in accordance with the laws of the State of Florida.

In Witness, the parties here have duly executed this Agreement as of the date written above.

WITNESSES

GAINESVILLE COMMUNITY
REDEVELOPMENT AGENCY

Jenny Rucker

Wayne Bowers

Wayne Bowers
Executive Director

D. Brady

STATE OF FLORIDA
COUNTY OF ALACHUA

Approved as to form and legality
By Conchi M. Ossa
Attorney for Gainesville Community
Redevelopment Agency

This instrument was executed before me on the 11 day of March, 1999, by Wayne Bowers, Executive Director of the Gainesville Community Redevelopment Agency.



Conchi M. Ossa
MY COMMISSION # CC696966 EXPIRES
December 1, 2001
BONDED THRU TROY FAIN INSURANCE, INC.

Conchi M. Ossa

NOTARY PUBLIC

Personally known
 Produced _____ as identification.

Accepted and agreed to:

WITNESS

Mary Ann Kelly

McGURN INVESTMENT COMPANY

Kenneth R. McGurn

Kenneth R. McGurn, President

STATE OF FLORIDA
COUNTY OF ALACHUA

This instrument was acknowledged before me on the 18th day of March, 1999, by Kenneth R. McGurn, President of McGurn Investment Company, a Florida corporation, on behalf of the corporation. He is personally known to me.



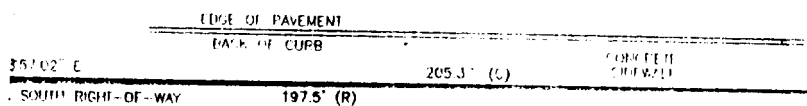
MARY ANN KELLY
COMMISSION # CC 463816
EXPIRES JUN 11, 1999
BONDED THRU
ATLANTIC BONDING CO., INC.

Mary Ann Kelly

NOTARY PUBLIC

S.E. 2nd AVE. NORTH RIGHT-OF-WAY

CENTERLINE SOUTHEAST 2nd AVENUE
ASPHALT PAVEMENT



197.5' (R)
SOUTH RIGHT-OF-WAY

5 88°57'02" W 7.96'
BUILDING CORNER
IS 5.46' EAST OF
PROPERTY CORNER

EAST PROPERTY LINE
EDGE OF BUILDING
EDGE OF FOOTER
WEST LINE OF EASEMENT

EASEMENT
CONTAINS
± 1.68 SOFT

POINT OF BEGINNING
EASEMENT
S 88°57'02" W 7.88'
S 88°57'02" W 9.56'

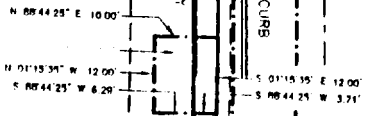
UNDERGROUND ELECTRIC
MANHOLE AND BOX
CONCRETE PAD

UNDERGROUND ELECTRIC LINES
CONTINUE TO THE SOUTH
UNDER SIDEWALK

PROPOSED BUILDING LOCATION
TAX PARCEL NO 14567
BLOCK 4, RANGE 1
TAX PARCEL NO. 14565

EAST LINE OF BLOCK 4, RANGE 1

SOUTHEAST 2nd STREET CLOSED BY
CITY OF GAINESVILLE ORD. 2804



N 88°44'25" E 10.00'
N 01°15'35" W 12.00'
S 88°44'25" W 6.20'
N 01°52'24" W 8.00'

BUILDING CORNER
IS 3.62' EAST OF
PROPERTY CORNER

S 88°44'25" W 10.00'
N 88°44'25" E 6.12'

CENTERLINE SOUTHEAST 2nd PLACE

EXHIBIT "A" TO EASEMENT FOR AIR RIGHTS