

**MINUTES  
CITY COUNCIL REGULAR MEETING  
AUGUST 4, 2014  
5:00 P.M.**

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**CALL TO ORDER:** Mayor Pro-Tem Jason Power called the meeting to order at 5:00 p.m.

**ROLL CALL:** Present were Mayor Pro-Tem Jason Power, Councilmember Mike Sosebee, Councilmember Angie Smith, Councilmember Chris Gaines, City Attorney Dana Miles, City Clerk Bonnie Warne, Nalita Copeland and Public Works Director Gary Barr. Mayor Grogan was absent.

**INVOCATION AND PLEDGE:** Invocation and pledge was led by Angie Smith.

**AGENDA:** Motion to amend the agenda to remove the AT&T Franchise Ordinance as requested by Attorney Miles by M. Sosebee/A. Smith. Vote carried unanimously. Motion to approve the agenda as amended by: C. Gaines/ A. Smith. Vote unanimous in favor.

**MINUTES:** Motion to approve the minutes of the regular meeting July 7, 2014 by A. Smith / M. Sosebee. Motion carried unanimously.

**NEW BUSINESS:**

Proclamation: National Payroll Week Sep 1-5, 2014: Mayor Pro-Tem Power presented the proclamation to Ms. Dolly Moses and Ms. Doralee Allar of the Atlanta Chapter of the American Payroll Assoc.

Document Purge of Fiscal Year 2007-08 Files: Motion to approve the annual document purge by: M. Sosebee/A. Smith. Vote carried unanimously.

DDA Member: Motion to table until next meeting by: C. Gaines/M. Sosebee. Vote unanimous.

Historic Preservation Presentation: Leigh Burns, Historic Preservation Division, GA DNR: Joe Rothwell of GMRC introduced Leigh Burns who did a presentation and gave out information.

Lease with DDA for Main Street Park: Attorney Miles informed the Council that the lease amount is \$3729.78 a month starting 8/24/2014 with a balloon payment on 7/24/2019 of approx. \$398K with an option to purchase for the balance plus \$10. Motion to approve the lease agreement and to give the Mayor/Mayor Pro-Tem the authorization to execute by: A. Smith/M. Sosebee. C. Gaines abstained. Motion carried in favor. Exhibit "A"

Staff Reports: City Clerk Bonnie Warne reported that all of the financial reports for June 2014 are balanced with no discrepancies. The auditor is continuing with the audit. Public Works Director Gary Barr stated that all is good.

Council Reports: Angie Smith informed all that the Family Connection is sponsoring a Back to School Drive that evening at Chick-Fil-A for school supplies and that there is also a school supply drop-off box located at City Hall. Chris Gaines stated that the Chamber is promoting the Music and Beer Festival in Dawsonville behind City Hall on August 22-23 and that the DDA looks forward to reengaging the community.

**ADJOURNMENT:** With there being no further business or executive session to attend to the regular meeting closed and adjourned at 5:49 p.m. The motion carried unanimously; M. Sosebee/ A. Smith.

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---



W. James Grogan  
Mayor W. James Grogan

[Signature]  
Councilmember Chris Gaines

[Signature]  
Councilmember Jason Power

Angie Smith  
Councilmember Angie Smith

Mike Sosebee  
Councilmember Mike Sosebee

Attested: [Signature]  
Bonnie Warne, City Clerk

## MAIN STREET PARK LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease"), made effective as of the 1<sup>st</sup> day of August 2014, by and between the Downtown Development Authority of Dawsonville, Georgia (the "DDA"), hereinafter referred to as "Landlord," and THE CITY OF DAWSONVILLE, a Georgia municipal corporation, hereinafter referred to as "Tenant";

### WITNESSETH:

1. **Premises.** For and in consideration of the rents, covenants, agreements, and stipulations hereinafter set forth, to be paid, kept and performed by Tenant, Landlord hereby leases and rents to Tenant, and Tenant hereby leases and takes upon the terms and conditions hereinafter set forth, the property to become known as Main Street Park, and being more particularly described on Exhibit "A" hereto together with all improvements thereon (hereinafter called the "Premises"). The Premises is undeveloped land with some utilities and some paving. This Lease is subject to all encumbrances, easements, covenants and restrictions of record.

2. **Term.** The initial term (the "Initial Term") of this Lease shall commence on the 1<sup>st</sup> day of August, 2014, ("Commencement Date") and terminate at midnight on July 31<sup>st</sup>, 2019 unless earlier terminated by the Purchase Option as provided hereinafter. Thereafter, this Lease shall automatically renew on the first day of each successive month (each successive month hereinafter referred to as a "Renewal Term") unless terminated by either party for any reason upon thirty (30) days written notice to the other. However, in no event shall this Lease extend by renewal for term longer than twelve (12) months from July 31<sup>st</sup>, 2023.

3. **Rental.** Tenant shall pay to Landlord monthly rental ("Rent") equal to the monthly loan payment due from the Landlord to United Community Bank according to the Promissory Note dated July 25<sup>th</sup>, 2014 and attached hereto as Exhibit "B." The monthly payments are \$3,729.78 per month due on the twenty-fourth day of each month, in advance, without offset or demand, commencing on August 24, 2014 with a final balloon payment estimated at \$398,557.59 due on July 24, 2019. All payments of Rent shall be sent and made payable to United Community Bank, 6372 Hwy. 53 East, Dawsonville, GA 30534, or such other address provided to Tenant by Landlord. In the event Tenant fails to pay Rent or any other payment called for under this Lease within ten (10) days of the due date, Tenant shall pay a late charge equal to five percent (5%) of the unpaid amount. Landlord and Tenant agree that such late charge is intended to compensate Landlord for additional administrative charges and other damages incurred by Landlord on account of such late payment and not as a penalty. Landlord and Tenant agree that the actual damages to be suffered by Landlord in such event shall be difficult, if not impossible to ascertain, and that such late charge is a reasonable estimate of such charges and damages.

4. **Purchase Option.** Tenant shall have the option to purchase the Premises for the sum of \$10.00 plus payment in full of all obligations due from the Landlord to United Community Bank according to the Promissory Note dated July 25<sup>th</sup>, 2014 and attached hereto as Exhibit "B", as the same may be modified or renewed from time to time by Landlord. Tenant may exercise this Purchase Option at any time during the initial or any renewal term by providing Landlord at least thirty (30) days prior written notice. It is expressly acknowledged by Landlord and Tenant that it is the intent of the Tenant that the Premises will be developed by Tenant into a public park to be tentatively named Main Street Park or such other name as may be chosen by Tenant. It is further the understanding of the parties that funding for both the acquisition and development of Main Street Park by Tenant will be obtained from the proceeds of SPLOST VI assuming the same is approved by the voters in November 2014.

5. **Utility Bills.** Tenant shall place all utilities in Tenant's name and pay all utility bills and all charges and assessments pertaining to utilities serving the Premises, including, but not limited to, water and sewer, natural gas, electricity, fire protection (including sprinkler testing charges) and sanitary charges. Any and all amounts due Landlord under this Lease in addition to Rent and all amounts due for utilities hereunder, shall be deemed "Additional Rent."

6. **Mortgagee's Rights.** Tenant's rights as to the Premises shall be subject and subordinate to any mortgage or deed to secure debt which is now or may hereafter be placed upon the Premises by Landlord. This subordination is intended to be self-operative. Nevertheless, Tenant agrees to execute and deliver such documentation as may be required by any such mortgagee to effect or memorialize any such subordination within ten (10) days of demand therefore. If requested, Tenant shall execute such mortgagee's form of subordination, non-disturbance and attornment agreement.

7. **Repairs by Tenant.** Tenant shall not allow the Premises to fall out of repair or deteriorate. Tenant, at its sole cost, shall keep and maintain the Premises, including without limitation, all buildings, structures, paving, driveways, walkways, the floor slab, lawn maintenance and landscaping, in good order and repair. Tenant also agrees to keep in good repair, and replace if necessary, all systems pertaining to water, fire protection, drainage, sewer, electrical, heating, ventilation, air conditioning and lighting. Tenant agrees to return such systems to Landlord in good operating condition upon the expiration or earlier termination of the Initial or any Renewal Term of this Lease, as the case may be in the event the Purchase Option is not exercised by Tenant. Tenant shall not cause the Premises to become subject to any lien, charge or encumbrance whatsoever. Tenant shall have no authority, express or implied, to create any lien, charge or encumbrance upon the interest of the Landlord in the Premises.

8. **Improvements.** Tenant may make such modifications, alterations and improvements as Tenant sees fit to the Premises in order to develop the Premises into a city park. The parties acknowledge that there are no improvements currently on the Premises other than paving and utilities and that all improvements to be made to develop the Premises shall be at Tenant's cost and expense. All such improvements shall remain with the Premises and become the property of Landlord upon the expiration or termination of this Lease unless the Purchase Option is exercised.

9. **Insurance.** Tenant agrees to obtain general liability insurance on the Premises insuring Tenant and naming Landlord as additional insured and Landlord's lender as mortgagee, with limits of not less than \$1,000,000.00 for death or bodily injury to one or more persons in a single occurrence and not less than \$1,000,000 for property damage. Such general liability insurance policy shall contain a broad form contractual liability endorsement covering Tenant's indemnities in favor of Landlord provided hereunder.

10. **Governmental Orders.** Tenant agrees, at its own expense, to promptly comply with all requirements of any applicable law, ordinance, statute or regulation applicable to the Premises or Tenant's operations in the Premises.

11. **Assignment.** Tenant may assign this Lease or any interest thereunder or sublet the Premises in whole or in part or allow all or a portion of the Premises to be used by a third party without the prior written consent of Landlord. Any assignee (and if Landlord so elects, any subtenant) shall become liable directly to Landlord for all obligations of Tenant hereunder. No such assignment or sublease nor any subsequent amendment of the Lease shall release Tenant of Tenant's obligations hereunder.

12. **Hazardous Substances.** Tenant covenants that neither Tenant, nor any of its agents, employees, contractors or invitees shall cause or permit any Hazardous Materials to be stored, handled, treated, released or brought upon or disposed of on the Premises. Tenant shall comply with any and all applicable laws, ordinances, rules, regulations and requirements respecting the

storage, handling, treatment, release, disposal, presence or use of permitted Hazardous Materials in, on or about the Premises. As used herein, the term "Hazardous Materials" means asbestos, polychlorinated biphenyls, oil, gasoline or other petroleum based liquids, any and all materials or substances deemed hazardous or toxic or regulated by applicable laws, including but not limited to substances defined as hazardous under the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601 et seq., the Resource Conservation and Response Act, as amended, 42 U.S.C. § 6901 et seq. (or any state counterpart to the foregoing statutes) or determined to present the unreasonable risk of injury to health or the environmental under the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 et seq. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, costs (including without limitation, consultants' fees, experts' fees, attorney's fees and court costs), liabilities or losses resulting from the storage, handling, treatment, release, disposal, presence or use of Hazardous Materials in, on or about the Premises from and after the date of this Lease. Without limiting the generality of the foregoing indemnity, in the event Landlord has reason to believe that the covenant set forth in this Paragraph has been violated by Tenant, Landlord shall be entitled, at Tenant's sole expense, to take such actions as Landlord deems necessary in order to assess, contain, delineate and/or remediate any contamination by such Hazardous Materials. Any sums expended by Landlord shall be reimbursed by Tenant, as Additional Rent, within thirty (30) days of demand therefore by Landlord. Upon the expiration or earlier termination of this Lease, Tenant, upon request by Landlord, shall cause to be performed such environmental studies of the Premises by an environmental consultant approved by Landlord as are necessary to determine whether any Hazardous Materials have been stored, handled, treated, released, brought upon or disposed of on the Premises during the term of this Lease in violation of the terms hereof. If Tenant fails to cause any such study to be performed, Landlord may do so, at Tenant's expense. The obligations of this Paragraph shall survive the expiration or earlier termination of this Lease.

13. **Removal of Fixtures.** Provided Tenant is not then in default hereunder, Tenant may remove all fixtures and equipment which Tenant has placed in the Premises, provided Tenant repairs all damages to the Premises caused by such removal, but in no event shall Tenant remove heating, ventilating, air conditioning, plumbing, electrical and lighting systems and fixtures without the prior written approval of Landlord. In the event this Lease is terminated for any reason, any property remaining in or upon the Premises, at the option of Landlord, may either be deemed to become property of Landlord or Landlord may dispose of such property as Landlord deems proper with no obligation to Tenant.

14. **Default; Remedies.** In the event (i) any payment of Rent or other sum due hereunder is not paid as and when due and Tenant fails to cure such default within ten (10) days after written demand from Landlord (but in no event shall Landlord be required to give more than two (2) such written notices in any twelve month period; thereafter a default shall exist if a payment is not paid as and when due) or (ii) Tenant shall fail to comply with any term, provision, condition, or covenant of this Lease, other than an obligation requiring the payment of rent or other sums hereunder and shall not cure such failure within twenty (20) days after notice to the Tenant of such failure to comply, then Landlord shall have the option to do any one or more of the following:

- a) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord. Tenant agrees to pay Landlord for all loss, damage and expense which Landlord may suffer by reason of such termination.
- b) Pursue a dispossessory action against Tenant, in which event Tenant shall remain liable for all amounts owed hereunder, including amounts accruing hereunder from and after the date that a writ of possession is issued.

- c) Perform any unperformed obligation of Tenant. Any sums expended by Landlord shall be repaid by Tenant, as additional rent, within ten (10) days of demand therefore by Landlord.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or any other remedies provided by law. In the event that either party has to retain an attorney to enforce its rights under this Lease Agreement, said party shall be entitled to reasonable attorney's fees.

15. **Estoppel Certificates.** Tenant agrees to furnish within ten (10) days of receipt of request from Landlord or Landlord's mortgagee a written statement certifying as to the then-current status of the Lease. Such estoppel certificate shall address matters of the type customarily included in estoppel certificates requested and obtained by institutional lenders and landlords.

16. **No Estate in Land.** This Lease shall create the relationship of landlord and tenant between Landlord and Tenant; no estate shall pass out of Landlord; Tenant has only a usufruct, not subject to levy and sale, and not assignable by Tenant except as provided in this Lease above.

17. **Miscellaneous.** All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative but not restrictive to those given by law. No failure of the Parties to exercise any power given to the Parties hereunder, or to insist upon strict compliance by the other Party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of the Parties' right to demand exact compliance with the terms hereof. Time is of the essence of this Lease. This Lease shall be binding upon and shall inure to the benefit of the respective successors and assigns of Landlord and Tenant. Tenant shall pay and be liable for all Rent, sales and use taxes, and other similar taxes, if any, levied or imposed by any city, state, county or other governmental authority. Such payments shall be paid concurrently with the payment of Rent or other sum due hereunder upon which the tax is based. This Lease contains the entire agreement of the parties hereto as to the Premises, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein, shall be of any force or effect. If any term, covenant or condition of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons, entities or circumstances other than those which or to which used may be held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Lease shall be valid and enforceable to the fullest extent permitted by law. Neither party shall be bound hereunder until such time as both parties have signed this Lease. This Lease shall be governed by the laws of the State of Georgia.

18. **Notices.** Any notice given pursuant to this Lease shall be in writing and sent by hand delivery, USPS or by reputable overnight courier to:

- a) Landlord: Downtown Development Authority of Dawsonville, Georgia, P.O. Box 6, Dawsonville, Georgia 30534, or at such other address as Landlord may designate in writing to Tenant.
- b) Tenant: City of Dawsonville, 415 Highway 53 East, Suite 100, Dawsonville, Georgia 30534, or at such other address as Landlord may designate in writing to Tenant with a copy to Dana B. Miles, City Attorney, Miles Patterson Hansford Tallant, LLC, 202 Tribble Gap Road, Suite 200, Cumming, Georgia 30040.

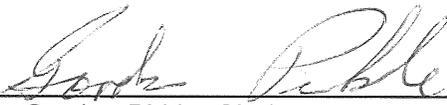
Any notice sent in the manner set forth above shall be deemed sufficiently given for all purposes hereunder upon receipt if sent by hand delivery or reputable overnight courier, or if sent by USPS within two (2) business days after the postmark date.

19. **Use of Premises.** The Premises shall not be used for any illegal purposes, or in any manner to create any nuisance or trespass, vitiate Landlord's insurance or violate any restrictive covenants encumbering the Premises or Landlord's rules and regulations applicable thereto.

20. **Ad Valorem Taxes.** As both Tenant and Landlord are government entities, no ad valorem tax should be assessed against the Premises. Any funds escrowed from Landlord's closing on the premises of July 25, 2014 for the taxable interest of Landlord's predecessor in title for 2014 shall be held by and paid by Tenant to Dawson County in such amount as is proper.

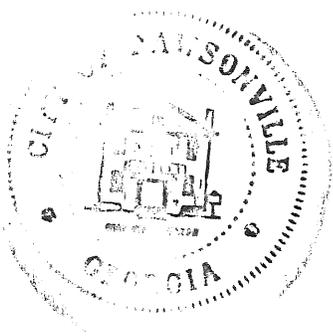
**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals, effective the day and year first above written.

**LANDLORD:  
DOWNTOWN DEVELOPMENT AUTHORITY OF  
DAWSONVILLE, GEORGIA**

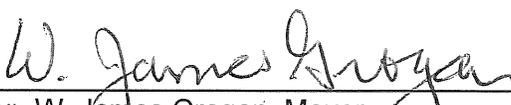
  
By: Gordon Pirkle, Chair

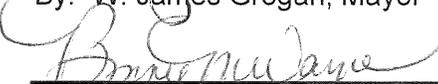


  
Attest: Seanie Zappendorf, Secretary



**TENANT:  
CITY OF DAWSONVILLE,  
a Georgia municipal corporation**

  
By: W. James Grogan, Mayor

  
Attest: Bonnie Warne, Clerk

8-15-14

(seal)

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 441, 444, 443 and 442 of the 4<sup>th</sup> District of Dawson County, Georgia, being Parcels A, B and C totaling a 44.611 acre tract as shown on that certain plat of survey for Downtown Development Authority of the City of Dawsonville, prepared by Frederick C. Youngman, R.L.S. dated April 25, 1997 and recorded in Plat Book 37, Page 159 of the Dawson County Records which plat is incorporated herein by reference.

LESS & EXCEPT:

TRACT 1:

All that tract or parcel of land lying and being in Land Lots 442 and 443 of the 4<sup>th</sup> District, 1<sup>st</sup> Section, Dawson County, Georgia, containing 3.722 acres as shown on a plat for Dawson County Library by Richard J. Webb, GRLS, dated September 27, 1999 and recorded in Plat Book 50, Page 89 of the Dawson County plat records; reference to such plat is hereby made for a more complete description of the property herein conveyed.

Being the same property conveyed in a Warranty Deed to Dawson County, dated December 20, 1999 and recorded in Deed Book 330, Pages 17-19 of the Dawson County records.

TRACT 2:

All that tract or parcel of land lying and being in Land Lot 443 of the 4<sup>th</sup> District, 1<sup>st</sup> Section, City of Dawsonville, County of Dawson, State of Georgia, being a 3.094 acre parcel, as shown on Plat of Survey prepared by John T. Gaston, GRLS No. 2821, dated July 20, 2000, revised May 14, 2002, which plat is recorded in the Office of the Superior Court of Dawson County, Georgia at Plat Book 54, Page 189, and incorporated herein and made a part hereof by reference for a more complete and accurate description.

Being the same property conveyed in a Warranty Deed to Dawson County, Georgia, dated May 14, 2002 and recorded in Deed Book 445, Pages 184-186 of the Dawson County records.

TRACT 3:

All that tract or parcel of land situate, lying and being in Land Lot 443 of the 4<sup>th</sup> Land District and 1<sup>st</sup> Section of Dawson County, Georgia, containing 0.385 acres, more or less, as shown on a plat of survey for Marcus C. Byrd, Jr., prepared by Jon G. Stubblefield, GRLS No. 2599, dated October 26, 2005 and being more particularly described according to said plat of survey as follows:

To arrive at the TRUE POINT OF BEGINNING, start at the intersection of the westerly right-of-way of Heard Road with the northerly, northeasterly right-of-way of Georgia Highway 53,

running thence northerly, northwesterly along Heard Road a distance of 1101.77 feet to a point; thence leaving the right-of-way of Heard Road and running South 83 degrees 06 minutes 56 seconds West a distance of 16.17 feet to an iron pin set, which is the TRUE POINT OF BEGINNING; from said TRUE POINT OF BEGINNING running thence along the property now or formerly owned by Marcus C. Byrd, Jr. the following courses and distances: South 79 degrees 36 minutes 35 seconds West a distance of 99.68 feet to a point, North 74 degrees 28 minutes 49 seconds West a distance of 51.46 feet to a point, South 86 degrees 03 minutes 13 seconds West a distance of 137.66 feet to a point, South 82 degrees 18 minutes 59 seconds West a distance of 110.85 feet to a point, South 81 degrees 53 minutes 01 seconds West a distance of 29.12 feet to one-half inch rebar found; thence leaving the property now or formerly owned by Marcus C. Byrd, Jr. and running North 09 degrees 04 minutes 58 seconds West a distance of 31.62 feet to a point on the southerly right-of-way of Memory Lane (50 foot right of way); running thence along the southerly right-of-way of Memory Lane the following courses and distances: an arc distance of 19.47 feet to a point, said arc being subtended by chord bearing North 80 degrees 38 minutes 14 seconds East and having a chord distance of 19.47 feet, North 80 degrees 32 minutes 51 seconds East a distance of 91.34 feet to a point, an arc distance of 98.10 feet to a point, said arc being subtended by a chord bearing North 82 degrees 56 minutes 24 seconds East and having a chord distance of 98.07 feet, thence an arc distance of 210.52 feet to an iron pin set, said arc being subtended by a chord bearing North 86 degrees 46 minutes 58 seconds East and having a chord distance of 210.50 feet; thence leaving the right-of-way of Memory Lane and running South 16 degrees 13 minutes 12 seconds East a distance of 42.34 feet to the POINT OF BEGINNING.

Being the same property conveyed in a Warranty Deed to Marcus C. Byrd, Jr., dated November 1, 2005 and recorded in Deed Book 701, Pages 326-327 of the Dawson County records.

TRACT 4:

All that tract or parcel of land lying and being in Land Lots 441, 442, 443, and 444 of the 4<sup>th</sup> District, 1<sup>st</sup> Section of Dawson County, City of Dawsonville, Georgia and being more particularly described as follows:

BEGINNING at a right-of-way disk located at the intersection of the Eastern right-of-way of Georgia Highway No. 53 (60-foot right-of-way) with the Southern right-of-way of Allen Street (40-foot right-of-way); thence running along said Southern right-of-way of Allen Street the following courses and distances:

1. North 87 degrees 00 minutes 48 seconds East a distance of 104.51 feet to a point;
2. North 89 degrees 19 minutes 57 seconds East a distance of 67.26 feet to an iron pin set.

Thence leaving said Southern right-of-way of Allen Street and running South 01 degree 12 minutes 42 seconds East a distance of 200.00 feet to a point; thence running South 88 degrees 22 minutes 30 seconds East a distance of 600.00 feet to a ½-inch open top pipe; thence running North 01 degree 12 minutes 42 seconds West a distance of 200.16 feet to an iron pin set on the aforesaid Southern right-of-way of Allen Street; thence running along said Southern right-of-way of Allen Street South

88 degrees 48 minutes 02 seconds East a distance of 27.71 feet to an iron pin set at the intersection of said Southern right-of-way of Allen Street with the proposed Western right-of-way of Thunder Road (50-foot proposed right-of-way); thence leaving said Southern right-of-way of Allen Street and running along said proposed Western right-of-way of Thunder Road the following courses and distances:

1. South 40 degrees 16 minutes 01 second East a distance of 33.10 feet to an iron pin set;
2. South 08 degrees 16 minutes 39 seconds West a distance of 173.34 feet to a point;
3. Along the arc of a curve to the left an arc distance of 99.86 feet to a point (said arc being subtended by a chord bearing South 04 degrees 36 minutes 31 seconds West and having a radius of 779.70 feet and a chord distance of 99.79 feet);
4. South 00 degrees 56 minutes 23 seconds West a distance of 162.59 feet to an iron pin set.

Thence leaving said proposed Western right-of-way of Thunder Road and running South 72 degrees 36 minutes 14 seconds West a distance of 161.37 feet to an iron pin set; thence running North 89 degrees 07 minutes 45 seconds West a distance of 192.81 feet to an iron pin set; thence running North 76 degrees 12 minutes 47 seconds West a distance of 109.44 feet to an iron pin set; thence running South 71 degrees 56 minutes 53 seconds West a distance of 175.11 feet to an iron pin set on the aforesaid Eastern right-of-way of Georgia Highway No. 53; thence running along said Eastern right-of-way of Georgia Highway No. 53 North 16 degrees 54 minutes 50 seconds West a distance of 568.10 feet to the right-of-way disk that marks the POINT OF BEGINNING.

Said parcel of land containing 5.618 acres and being shown as Tract 1 on that certain Boundary Survey, prepared for United Community Bank, First American Title Insurance Company, and Dawsonville Downtown Development Authority, by Development Planning & Engineering, Inc., certified by Jon G. Stubblefield, Georgia Registered Land Surveyor No. 2599, dated March 15, 2005 and last revised December 20, 2005.

#### TRACT 5:

All that tract or parcel of land lying and being in Land Lots 442 and 443 of the 4<sup>th</sup> District, 1<sup>st</sup> Section of Dawson County, City of Dawsonville, Georgia and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, begin at a right-of-way disk located at the intersection of the Eastern right-of-way of Georgia Highway No. 53 (60-foot right-of-way) with the Southern right-of-way of Allen Street (40-foot right-of-way); thence running along said Southern right-of-way of Allen Street the following courses and distances:

1. North 87 degrees 00 minutes 48 seconds East a distance of 104.51 feet to a point;
2. North 89 degrees 19 minutes 57 seconds East a distance of 67.26 feet to an iron pin set.

Thence leaving said Southern right-of-way of Allen Street and running South 01 degree 12 minutes 42 seconds East a distance of 200.00 feet to a point; thence running South 88 degrees 22 minutes 30

seconds East a distance of 600.00 feet to a ½-inch open top pipe; thence running North 01 degree 12 minutes 42 seconds West a distance of 200.16 feet to an iron pin set on the aforesaid Southern right-of-way of Allen Street; thence running along said Southern right-of-way of Allen Street South 88 degrees 48 minutes 02 seconds East a distance of 27.71 feet to an iron pin set at the intersection of said Southern right-of-way of Allen Street with the proposed Western right-of-way of Thunder Road (50-foot proposed right-of-way), said point being the TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence leaving said Southern right-of-way of Allen Street and running along said proposed Western right-of-way of Thunder Road the following courses and distances:

1. South 40 degrees 16 minutes 01 second East a distance of 33.10 feet to an iron pin set;
2. South 08 degrees 16 minutes 39 seconds West a distance of 173.34 feet to a point;
3. Along the arc of a curve to the left an arc distance of 99.86 feet to a point (said arc being subtended by a chord bearing South 04 degrees 36 minutes 31 seconds West and having a radius of 779.70 feet and a chord distance of 99.79 feet);
4. South 00 degrees 56 minutes 23 seconds West a distance of 162.59 feet to an iron pin set.

Thence leaving said proposed Western right-of-way of Thunder Road and running North 72 degrees 36 minutes 14 seconds East a distance of 52.67 feet to an iron pin set on the proposed Eastern right-of-way of Thunder Road (proposed 50-foot right-of-way); thence running along said proposed Eastern right-of-way of Thunder Road the following courses and distances:

1. North 00 degrees 56 minutes 23 seconds East a distance of 146.02 feet to a point;
2. Along the arc of a curve to the right an arc distance of 93.45 feet to a point (said arc being subtended by a chord bearing North 04 degrees 36 minutes 31 seconds East and having a radius of 729.70 feet and a chord distance of 93.39 feet);
3. North 08 degrees 16 minutes 39 seconds East a distance of 179.54 feet to an iron pin set;
4. North 49 degrees 44 minutes 18 seconds East a distance of 37.47 feet to an iron pin set at the intersection of said proposed Eastern right-of-way of Thunder Road with the aforesaid Southern right-of-way of Allen Street.

Thence leaving said proposed Eastern right-of-way of Thunder Road and running along said Southern right-of-way of Allen Street North 88 degrees 48 minutes 02 seconds West a distance of 100.38 feet to the iron pin set which marks the TRUE POINT OF BEGINNING.

Said parcel of land containing 0.533 acres and being shown as Tract 2 on that certain Boundary Survey, prepared for United Community Bank, First American Title Insurance Company, and Dawsonville Downtown Development Authority, by Development Planning & Engineering, Inc., certified by Jon G. Stubblefield, Georgia Registered Land Surveyor No. 2599, dated March 15, 2005, and last revised October 4, 2005.

Tracts 4 and 5 being the same property conveyed in a Limited Warranty Deed to Downtown Development Authority of Dawsonville, Georgia, dated December 22, 2005 and recorded in Deed Book 712, Pages 68-70 of the Dawson County records.

TRACT 6:

All tract or parcel of land lying and being in Land Lots 443 and 444 of the 4<sup>th</sup> District, 1<sup>st</sup> Section of Dawson County, Georgia being Tract 1 consisting of 1.18 acres, more or less, and Tract 2 consisting of 1.32 acres, more or less, as shown on that certain plat of survey for Appalachian Bankshares, Inc. by Donald O. Babb, Georgia Registered Land Surveyor, No. 2029, dated September 14, 2006 and being more particularly described as follows:

To arrive at the TRUE POINT OF BEGINNING, start at the intersection of the centerline of Allen Road with the centerline of Georgia Highway 53, running thence South 19 degrees 53 minutes 37 seconds East, a distance of 1,170.11 feet to a point on the easterly, northeasterly right-of-way of Highway 53, which is the TRUE POINT OF BEGINNING; from said TRUE POINT OF BEGINNING, running thence North 63 degrees 27 minutes 39 seconds East, a distance of 98.02 feet to a No. 4 rebar; running thence North 79 degrees 54 minutes 39 seconds East, a distance of 132.13 feet to a No. 4 rebar; running thence North 79 degrees 54 minutes 39 seconds East, a distance of 164.47 feet to a point; running thence along an arc to the right a distance of 25.71 feet to a No. 4 rebar; running thence South 24 degrees 42 minutes 41 seconds East, a distance of 129.29 feet to a No. 4 rebar; running thence South 50 degrees 39 minutes 49 seconds East, a distance of 72.46 feet to a No. 4 rebar; running thence South 65 degrees 53 minutes 31 seconds East, a distance of 72.34 feet to a No. 4 rebar; running thence South 08 degrees 07 minutes 02 seconds East, a distance of 31.41 feet to a No. 4 rebar; running thence South 82 degrees 29 minutes 17 seconds West, a distance of 226.81 feet to a No. 4 rebar; running thence South 82 degrees 29 minutes 17 seconds West, a distance of 70.47 feet to a No. 4 rebar; running thence South 82 degrees 29 minutes 17 seconds West, a distance of 182.49 feet to a No. 4 rebar found on the easterly, northeasterly right-of-way of Georgia Highway 53; running thence northwesterly along the easterly, northeasterly right-of-way of Georgia Highway 53 an arc distance of 228.32 feet to a No. 4 rebar, which is the POINT OF BEGINNING.

Being the same property conveyed in a Warranty Deed to Appalachian Community Bank, dated September 18, 2006 and recorded in Deed Book 765, Pages 23-24 of the Dawson County records.

TRACT 7:

All that tract or parcel of land lying and being in Land Lots 443 and 444 of the 4<sup>th</sup> District, 1<sup>st</sup> Section of Dawson County, Georgia being Tract 1 containing 1.016 acres, Tract 2 containing 1.182 acres and Tract 3 containing 4.771 acres as shown on that certain plat of survey for JDH Capital, LLC by Jon G. Stubblefield, GRLS No. 2599, dated December 21, 2007 and recorded in Plat Book 74, Page 203 of the Dawson County, Georgia records, which plat is incorporated herein by reference.

Being the same property conveyed in a Limited Warranty Deed to Dawsonville Retail Investors, LLC, dated January 25, 2008 and recorded in Deed Book 850, Pages 452-455 of the Dawson County records.

TRACT 8:

All that tract or parcel of land lying and being within Land Lot 443, 4<sup>th</sup> District, 1<sup>st</sup> Section, City of Dawsonville, Dawson County, Georgia and being more particularly described as follows:

To find the true point of beginning commence at an iron pin found (1/2" rebar) located at Land Lot corner 57, 58, 443 & 510; proceed thence, along said Land Lot line 58 & 443 North 00 degrees 02 minutes 06 seconds East for a distance of 346.58 feet to an iron pin found (1/2" rebar); proceed thence, along said Land Lot line 58 & 443 North 00 degrees 06 minutes 41 seconds East for a distance of 472.36 feet to an iron pin found (3/4" rebar); proceed thence, North 89 degrees 53 minutes 18 seconds West for a distance of 86.57 feet to an iron pin set (1/2" rebar with cap) and the western right-of-way of Memory Lane (being a 40' R/W); proceed thence, along said western right-of-way of Memory Lane on an arc of radius 860.18 feet for a distance of 69.95 feet (said arc having a chord of 69.93 feet and a bearing of South 01 degrees 20 minutes 29 seconds West) to an iron pin set (1/2" rebar with cap); proceed thence, along said western right-of-way of Memory Lane South 00 degrees 59 minutes 19 seconds East for a distance of 288.21 feet to a city aluminum disk found; proceed thence, along said western right-of-way of Memory Lane on an arc of radius 50.94 feet for a distance of 78.95 feet (said arc having a chord of 71.28 feet and a bearing of South 43 degrees 24 minutes 25 seconds West) to a city aluminum disk found located on the northern right-of-way of Memory Lane (being a 40' R/W); proceed thence, along said northern right-of-way of Memory Lane South 87 degrees 48 minutes 21 seconds West for a distance of 192.11 feet to an iron pin set (1/2" rebar with cap); proceed thence, along said northern right-of-way of Memory Lane on an arc of radius 3,655.87 feet for a distance of 144.06 feet (said arc having a chord of 144.05 feet and a bearing of South 85 degrees 59 minutes 18 seconds West) to an iron pin set (1/2" rebar with cap); proceed thence, North 01 degrees 14 minutes 47 seconds East for a distance of 428.12 feet to an iron pin set (1/2" rebar with cap) located on common property line of now or formerly Association County Commissioners of Dawson County property; proceed thence, along said common property line of now or formerly Association County Commissioners of Dawson County property South 89 degrees 53 minutes 18 seconds East for a distance of 372.00 feet to an iron pin set (1/2" rebar with cap) and The Point of Beginning.

Said tract or parcel of land contains 156,828 square feet or 3.600 acres as shown on a plat prepared by Trail & Son, Inc., dated October 16, 2013.

The above property is subject to the following easement:

20 foot sanitary sewer easement (recording not found)

Being the same property conveyed in a Limited Warranty Deed to D&M Financial, LLC, dated November 20, 2013 and recorded in Deed Book 1098, Pages 1-3 of the Dawson County records.



\*00000005036228034095507252014\*

### PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$557,735.00	07-25-2014	07-24-2019	5036228034	7/1/2031	600668	7352	[Signature]

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** DOWNTOWN DEVELOPMENT AUTHORITY OF  
DAWSONVILLE, GEORGIA (TIN: 58-227766)  
P.O. BOX 6  
DAWSONVILLE, GA 30534

**Lender:** UNITED COMMUNITY BANK  
DAWSON 400  
6372 HIGHWAY 53 EAST  
DAWSONVILLE, GA 30534

**Principal Amount: \$557,735.00**

**Date of Note: July 25, 2014**

**PROMISE TO PAY.** DOWNTOWN DEVELOPMENT AUTHORITY OF DAWSONVILLE, GEORGIA ("Borrower") promises to pay to UNITED COMMUNITY BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of Five Hundred Fifty-seven Thousand Seven Hundred Thirty-five & 00/100 Dollars (\$557,735.00), together with interest on the unpaid principal balance from July 25, 2014, until paid in full.

**PAYMENT.** Subject to any payment changes resulting from changes in the Index, Borrower will pay this loan in 59 regular payments of \$3,729.78 each and one irregular last payment estimated at \$398,557.59. Borrower's first payment is due August 24, 2014, and all subsequent payments are due on the same day of each month after that. Borrower's final payment will be due on July 24, 2019, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; then to any late charges; and then to any unpaid collection costs. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**VARIABLE INTEREST RATE.** The interest rate on this Note is subject to change from time to time based on changes in an independent index which is the one (1) month London Interbank offered rate (LIBOR). LIBOR is the rate the most credit worthy international banks dealing in Eurodollars charge each other for large loans. The initial interest rate will be based on the last one (1) month LIBOR Rate, rounded to the nearest thousandth of a percentage point (for example a LIBOR Rate of 4.05568% is rounded to 4.056%) which appears on Telerate page 3750 (or such other page as may replace that page on that service for the purpose of displaying comparable rates) as of the last business day of the month immediately prior to the month in which the loan closed. After closing, the interest rate is subject to change on a monthly basis, based on the last one (1) month LIBOR rate posted by Telerate 3750 at the end of the previous month (the "Index"). The Index is not necessarily the lowest rate charged by Lender on its loans. If the Index becomes unavailable during the term of this loan, Lender may designate a substitute index after notifying Borrower. Lender will tell Borrower the current Index rate upon Borrower's request. The interest rate change will not occur more often than each month. Borrower understands that Lender may make loans based on other rates as well. The Index currently is 0.155% per annum. Interest on the unpaid principal balance of this Note will be calculated as described in the "INTEREST CALCULATION METHOD" paragraph using a rate of 2.350 percentage points over the Index, resulting in an initial annual rate of simple interest, based on a year of 360 days, of 2.505%. **NOTICE:** Under no circumstances will the interest rate on this Note be more than the maximum rate allowed by applicable law. Whenever increases occur in the interest rate, Lender, at its option, may do one or more of the following: (A) increase Borrower's payments to ensure Borrower's loan will pay off by its original final maturity date, (B) increase Borrower's payments to cover accruing interest, (C) increase the number of Borrower's payments, and (D) continue Borrower's payments at the same amount and increase Borrower's final payment.

**INTEREST CALCULATION METHOD.** Interest on this Note is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method. This calculation method results in a higher effective interest rate than the numeric interest rate stated in this Note.

**PREPAYMENT PENALTY.** Upon prepayment of this Note, Lender is entitled to the following prepayment penalty: A FEE OF \$500.00 (THE "PREPAYMENT FEE") WILL BE DUE AND PAYABLE IN THE EVENT THIS NOTE IS PAID IN ITS ENTIRETY PRIOR TO THE MATURITY DATE. Except for the foregoing, Borrower may pay all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: UNITED COMMUNITY BANK, DAWSON 400, 6372 HIGHWAY 53 EAST DAWSONVILLE, GA 30534.

**LATE CHARGE.** If a payment is 10 days or more late, Borrower will be charged 10.000% of the unpaid portion of the regularly scheduled payment or \$10.00, whichever is greater, regardless of any partial payments Lender has received.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, the interest rate on this Note shall be increased to 16.000% per annum based on a year of 360 days. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**Default in Favor of Third Parties.** Borrower or any Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's property or Borrower's ability to repay this Note or perform Borrower's obligations under this Note or any of the related documents.

**Environmental Default.** Failure of any party to comply with or perform when due any term, obligation, covenant or condition contained in any environmental agreement executed in connection with any loan.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Death or Insolvency.** The death of Borrower or the dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

**Insecurity.** Lender in good faith believes itself insecure.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest

