

**STATE OF GEORGIA
COUNTY OF FULTON**

RIGHT OF ENTRY AGREEMENT

This RIGHT OF ENTRY AGREEMENT ("Agreement"), made and entered into this ____ day of _____, 2018, by and between the **City of Hapeville**, a municipal corporation within the State of Georgia (hereinafter "Licensor"), and **Fulton County, Georgia**, a political subdivision of the State of Georgia, whose address for purpose of this Agreement is 141 Pryor Street, SW, Atlanta, GA 30303 ("Licensee").

WHEREAS, Licensor is the owner of that certain parcel of land in Fulton County, Georgia (hereinafter "Property"), as more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, upon such Property is situated a certain Building also owned by the Licensor and having the address of 525 King Arnold St, Hapeville, GA 30354; and

WHEREAS, the Licensor utilizes the building as a neighborhood facility known as the Hapeville Branch Library; and

WHEREAS, Licensee desires to build a new library at the same location in place of the current facility; and

WHEREAS, prior to such time that the parties enter into a Use Agreement with regard to the subject Property, Licensee and its employees, agents, contractors and subcontractors desire to enter the Building and or grounds to perform certain tests and investigations, preliminary construction activity (hereinafter known as the "Project") for which access to the Property is required; and

WHEREAS, Licensor desires to grant the license ("License") set forth below in this Right of Entry Agreement ("Agreement") to Licensee for such purposes.

NOW THEREFORE, for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration, paid in hand, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants and agreements contained in this Agreement, the parties do hereby agree as follows:

1.

GRANT OF LICENSOR

Licensor hereby grants to Licensee and its employees, agents, contractors and subcontractors, and Licensee hereby accepts from Licensor, the License to use the Property for the purposes hereinafter set forth in Paragraph 2.

2.

USE OF LICENSED PROPERTY

At Licensee's sole cost, expense, risk and responsibility, Licensee shall use the Property only for the purpose of completing the Project including, but not limited to; surveys, environmental investigations, soils and engineering studies, and other site inspection and investigation, utilities relocation, utilities add, demolition of buildings, construction of new building, parking lot , other such activities deemed as necessary for the Project as permitted by the City of Hapeville until such time as the agreement for use and transfer of land and title are completed.

3.

DURATION

It is understood and agreed between the parties hereto that this License is being granted for a temporary period for the above-stated purposes, and that said License shall expire twelve (12) months from execution of this document except to the extent that Fulton County, Georgia may extend the right of entry, on the same terms and conditions as in effect, for up to 2 successive periods of 12 months by providing written notice no later than 30 days prior to the end of this Agreement, or until such time as the new library is substantially completed and a certificate of occupancy is obtained.

4.

INTEREST

Licensee hereby acknowledges that by making, executing and delivering this Agreement, Licensor does not confer upon Licensee any right, title, interest, or estate in the Property, nor confer upon Licensee a license coupled with an interest or an easement, and Licensee is estopped from claiming any such right, title, interest, estate, license coupled with an interest, or easement in the Property.

5.

RESTORATION OF DAMAGE TO LICENSED PROPERTY

In the event that performance of the Project results in any damage to the Property; Licensee hereby agrees that within a reasonable time (not to exceed sixty [60] days unless such task is not capable of completion within such period) following completion of the Project, Licensee will, at its sole cost and expense, take reasonable steps to restore the Premises to substantially the same condition in which it existed prior to the commencement of the Project.

6.

ASSIGNMENT OR TRANSFER

This Agreement and the License granted herein, may not be assigned or transferred by Licensee or Licensor, without the prior written consent of the other party.

7.

NOTICES

All notices required herein shall be in writing and delivered to either party at the address contained herein by: (a) hand delivery at the aforementioned address; (b) United States Certified Mail - Return Receipt Requested, postage prepaid; or (c) Facsimile immediately followed by a confirmation call. The day upon which such notice is hand delivered, mailed, e-mailed or faxed shall be deemed the date of service of such notice.

To the Licensee: Fulton County Georgia
141 Pryor Street, Suite 8201
Atlanta, Georgia 30303
Attention: Director of Real Estate and Asset
Management

With a copy to: Office of the County Attorney
141 Pryor Road SW, Suite 4038
Atlanta, Georgia 30303
Attention: County Attorney

To the Licensor: City of Hapeville
3468 North Fulton Avenue
Hapeville, Georgia 30354

With a copy to: City of Hapeville Attorney
2200 Keys Ferry Court
P.O. Box 10
McDonough, Georgia 30253
Attention: City of Hapeville Attorney

GENERAL PROVISIONS OF THIS AGREEMENT

- 8.1 The brief capitalized and underlined headings or titles preceding each paragraph are for purposes of identification, convenience and ease of reference, and shall be disregarded in the construction of this Agreement.
- 8.2 No failure of either party hereto to exercise any right or power granted under this Agreement, or to insist upon strict compliance by the other party with this Agreement, and terms and conditions of this Agreement, shall constitute a waiver of either party's right to demand exact and strict compliance by the other party hereto with the terms and conditions of this Agreement.
- 8.3 This Agreement shall be governed by, construed under, performed and enforced in accordance with the laws of Georgia.
- 8.4 Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the parties that the court interpreting or construing the same shall not apply a presumption that the terms, conditions, and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.
- 8.5 This Agreement may be executed in two (2) counterparts, each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.
- 8.6 The termination of this Agreement shall not operate to cut off any claims or causes of action in favor of Licensor or Licensee which occurred or arose prior to the effective date of such termination.
- 8.7 Licensee hereby acknowledges that it has not been induced by any representation, statements, or warranties by Licensor including, but not limited to, representations or warranties with respect to title to the Premises or the condition or suitability thereof for Licensee's purpose.
- 8.8 Licensee shall not place or store, nor permit to be placed or stored, any Hazardous Substances (as defined in 42 U.S.C. Sections 9601, et seq.), petroleum products or other pollutants, toxic substances or environmental hazards on or under the Property.
- 8.9 Fulton County, the requestor of said License, further agrees that, as between the City of Hapeville and Fulton County, and to the extent allowable under Law, the County shall be responsible for all costs and damages stemming from all claims, actions, damages, liability and expense, including without limitation reasonable

attorneys' fees and costs, in connection with personal injury or property damage arising out of the acts or omissions of the County, its employees, agents or contractors upon the Property or any property surrounding the Property in conducting the permitted activities. Notwithstanding the foregoing and only as to third parties, nothing herein shall be construed as a waiver of the County's sovereign immunity and the immunities available to County officials, officers, employees and agents.

Fulton County reserves the right to self-fund for its workers' compensation, automobile liability and general and excess liability coverages for its activities on the Property or any property surrounding the Premises in conducting the activities authorized by this Agreement. Notwithstanding, the County shall provide and maintain a certificate of liability insurance from the County to the City, covering the County's contractors for the duration of the Agreement. In the alternative, the County shall ensure that its contractor provides sufficient insurance to cover the project and to include the City as an additional insured. The County may self-fund this obligation.

8.10 This Agreement supersedes all prior negotiations, discussions, statements and agreements between Licensor and Licensee and, until such time as the parties enter into a Use Agreement concerning the Property, constitutes the full, complete and entire agreement between the parties with respect to the Property and Licensee's use thereof. No member, officer, employee, representative or agent of Licensor or Licensee has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this Agreement. No modification of or amendment to this Agreement shall be binding on either party hereto unless such modification or amendment shall be properly authorized, in writing, properly signed by both Licensor and Licensee and incorporated in and by reference made a part hereof.

8.11 This Agreement is being entered into with the expectation that a Use Agreement for the Property, referenced in several places herein, shall be presented for consideration to the City of Hapeville Council and its Mayor.

IN WITNESS WHEREOF, Licensor and Licensee, acting by and through their duly authorized representatives, have caused these presents to be executed all as of the date hereinabove set forth.

[Signatures appear on the following pages]

EXECUTED BY LICENSEE, this _____ day of _____, 2018.

FULTON COUNTY,
a political subdivision of the State of Georgia

By: _____
Robert Pitts, Chairman
Fulton County Board of Commissioners

ATTEST:

By: _____
Dr. Jesse A. Harris
Clerk to the County Commission

APPROVED AS TO FORM

Office of the County Attorney

EXECUTED BY LICENSOR, this _____ day of _____, 2018.

City of Hapeville, a Georgia municipal
corporation

Unofficial Witness

By: _____
Tim Young, CPA, City Manager

Notary

Exhibit "A"

BEGINNING at a point formed by the northeast intersection of Claire Drive and King Arnold Street; running thence east along the north right- of- way of King Arnold Street a distance of 200 feet to a point, this being the TRUE POINT OF BEGINNING; running thence due north a distance of 250 feet to a point; running thence due east a distance of 250 feet to a point ; running thence due south a distance of 250 feet to a point on the north right – of way of King Arnold Street; running thence west along the north right- of- way of King Arnold Street a distance of 250 feet to the POINT OF BEGINNING . Such realty being improved property known as 525 King Arnold Street, Hapeville, Georgia according to the present numbering system of the City of Hapeville.