

where people matter

City of Loganville

Public Utilities
Brandon Phillips
Director

P.O. Box 39
Loganville, GA 30052

Tel: 770-466-3240

Staff Report Department of Public Utilities

To: Honorable Mayor Baliles and Members of the City Council

Through: Danny Roberts, City Manager

From: Brandon Phillips, Director of Utilities

Date: April 13, 2023

Subject: Approval of Cottages Easement Agreement

RECOMMENDATION:

The Utilities Department recommends that the City Council approve the permanent easement agreement between NHT Loganville and the City of Loganville.

BACKGROUND:

The permanent easement agreement will allow the City of Loganville to have access to the water distribution and sanitary sewer utilities inside this development. The access is required in order to perform maintenance and make necessary repairs once the utilities are dedicated to the city.

PERMANENT UTILITY EASEMENT AGREEMENT

THIS PERMANENT UTILITY EASEMENT AGREEMENT (this "Easement") is made and entered into this ____ day of _____, 2023 by and between NHT LOGANVILLE, LLC, a Delaware limited liability company ("Grantor"), and the CITY OF LOGANVILLE, GEORGIA ("Grantee" or the "City") (collectively, Grantor and Grantee may be referred to as the "Parties").

WHEREAS, Grantor owns the property legally described in Exhibit "A", attached hereto and made a part hereof by reference (the "Property"). Grantor has installed water and sanitary sewer lines on the Property as depicted on the following recorded instruments and further detailed as that "60' Ingress/Egress/Utility Easement" in Exhibit "B": (i) Final Plat dated _____, 2023 and recorded in the records of Walton County, Georgia, in Plat Book _____, Page ____ on _____, 2023.

WHEREAS, Grantor desires to grant and convey unto the City a perpetual utility easement and rights of way into, over, along, and across the portion of the Property depicted in the Final Plat (the "Easement Area") for the purpose of construction and installation of water and sanitary sewer lines, together with the right to go upon said Easement Area from time to time as necessary for the operation, use, inspection, maintenance, connection, repair, replacement, relocation, or removal of the aforementioned water and sanitary sewer lines. Grantee covenants to repair the Easement Area and any disturbed abutting property to the extent necessary to bring the Property to its original state as the Property stood prior to any construction, maintenance, or repair of the water and sewer sanitary lines, including the lift/pump station for the sanitary sewer lines, performed by Grantee. Additionally, Grantee agrees to pay all costs and expenses of such construction, maintenance and repairs that Grantee initiates over and through the Easement Area.

WHEREAS, Grantor warrants it is the sole legal owner of the Easement Area and has the authority to execute this Agreement.

WITNESSETH, that for and in consideration of \$1.00 cash in hand paid, and other valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Conveyance.** Grantor does grant, bargain, and convey to the City and to its successors and assigns the right, title, and privilege of a non-exclusive permanent utility easement and rights of way through the Easement Area.

2. **Encumbrances.** Trustmark National Bank is the present holder of a security instrument which presently encumbers the Property and joins in the execution of this Agreement for the limited purposes set forth hereinbelow. With the exception of Trustmark National Bank, Grantor does hereby represent and warrant to City that there are no security deeds, mortgages or other security interests presently encumbering the Property identified in Exhibit A that would prevent the granting of the easements herein or that would impair any of the rights granted to City

in connection with this Agreement. All future security deeds, mortgages, easements or encumbrances of any kind which are placed by Grantor or subsequent owners on the Property identified in Exhibit A shall be made expressly subordinate and subject to the easements and rights granted by Grantor to the City in this Agreement.

3. **Covenants running with the land.** The easement herein granted, and the agreements contained herein, shall be easements and agreements running with, appurtenant to, and burdening the Easement Area including without limitation all subsequent owners of the property and all persons claiming under them.

4. **Modification or amendment.** No provision of this Agreement may be released, subordinated, modified, rescinded or amended in whole or in part without the written consent of all Parties hereto

5. **Governing law.** This agreement shall be construed in accordance with the laws of the state of Georgia.

6. **Entire Agreement.** This Agreement contains the entire agreement of the Parties hereto with respect to the easements described herein, and no representations, inducements, promises or agreements, oral or otherwise, between the Parties not embodied herein or incorporated herein by reference shall be of any force or effect.

7. **Severability.** If any phrase, clause, sentence, paragraph or selection of this Agreement shall be held invalid or unconstitutional by a court of competent jurisdiction of this state or the United States, such adjudication shall in no way effect any of the remaining provisions hereof, all of which shall remain in full force and effect.

8. **Counterparts.** This Agreement may be executed in counterparts and each counterpart shall be considered an original but all such counterparts together shall be considered only one document.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date written above.

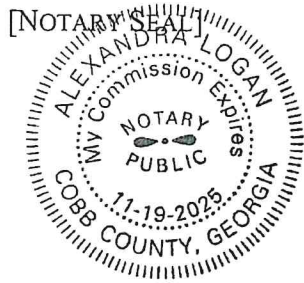
Signed, sealed and delivered
in the presence of:

[Signature]

Witness

[Signature]
Notary Public

My Commission Expires: 11-19-2025



ATTEST:

City Manager

GRANTOR:

NHT LOGANVILLE, LLC,
a Delaware limited liability company

By: [Signature] (SEAL)

Name: J. BRADFORD SMITH

Title: Authorized Signatory

GRANTEE:

CITY OF LOGANVILLE

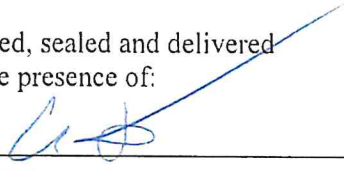
By: _____
Mayor

LENDER CONSENT AND SUBORDINATION

The undersigned Lender, as holder of that certain Amended and Restated Deed to Secure Debt, Security Agreement Assignment of Rents and Leases, dated November 20, 2020, recorded in Deed Book 4989, Page 51, and that certain First Amendment to Amended and Restated Deed to Secure Debt, Security Agreement and Assignment of Rents and Leases dated September 26, 2022, and recorded in Book 5216, Page 125, records of the Superior Court of Walton County, Georgia, does hereby join in this Easement for the purpose of consenting to and subordinating Lender's lien and security title to the Property to the terms and provisions of the foregoing Easement.

IN WITNESS WHEREOF, the undersigned has caused this Consent and Subordination to be signed and sealed this 1st day of March, 2023.

Signed, sealed and delivered
in the presence of:



Witness

Harris Owsley

Notary Public

My Commission Expires: 07/15/2025

[NOTARY SEAL]

LENDER:

TRUSTMARK NATIONAL BANK

By: Brian Jones (SEAL)

Name: Brian Jones

Title: Vice President

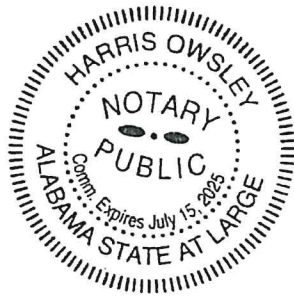


EXHIBIT A

Tract 1 Legal Description:

All that tract or parcel of land laying and being in the Land Lot 118 of the 4th District of Walton County, Georgia, and being more particularly described as follows:

Commencing at a point in the Centerline Intersection of U. S. Highway 78 and a 70' Ingress/Egress Easement road; thence North 23°34'43" East 78.05 feet to a PK nail in a sidewalk, on the northerly right of way of U. S. Highway 78; thence from the beginning of Right curve concave to the east having a radius of 458.14 feet and being subtended by a chord which bears North 07°59'02" East 21.06 feet; thence northeasterly along the curve concave to the east, a distance of 21.06 feet to a point; thence northeasterly along said curve concave to the east having a radius of 458.14 feet and being subtended by a chord which bears North 19°20'02" East 159.63 feet; thence northeasterly along the curve concave to the east, a distance of 160.45 feet to a point; thence North 29°19'25" East, a distance of 306.42 feet to the beginning of a curve concave to the west having a radius of 205.05 feet and being subtended by a chord which bears North 01°09'11" West 208.05 feet; thence northerly along said curve, a distance of 218.20 feet to a 1/2" rebar found; thence North 31°34'41" West, a distance of 200.00 feet; thence North 31°34'41" West, a distance of 1489.75 feet to a 1/2" rebar set at True Point of Beginning; thence North 30°34'13" West, a distance of 1089.94 feet to a 1/2" rebar set on the southerly right of way of Old Zion Cemetery Road; thence along said right of way in a curve concave to the southeast having a radius of 6942.73 feet and being subtended by a chord which bears North 59°47'46" East 71.45 feet; thence northeasterly along said curve, a distance of 71.45 feet; thence North 60°05'27" East, a distance of 128.33 feet to a computed point on the right of way; thence South 30°34'58" East, a distance of 1088.04 feet to a point; thence South 59°26'23" West, a distance of 200.00 feet to the Point of Beginning. Containing 4.998 Acres, more or less.

Tract 2 Legal Description:

All that tract or parcel of land laying and being in the Land Lot 118 of the 4th District of Walton County, Georgia, and being more particularly described as follows:

Commencing at a point in the Centerline Intersection of U. S. Highway 78 and a 70' Ingress/Egress Easement road; thence North 23°34'43" East 78.05 feet to a PK nail in a sidewalk, on the northerly right of way of U. S. Highway 78; thence from the beginning of Right curve concave to the east having a radius of 458.14 feet and being subtended by a chord which bears North 07°59'02" East 21.06 feet; thence northeasterly along the curve concave to the east, a distance of 21.06 feet to a point; thence northeasterly along said curve concave to the east having a radius of 458.14 feet and being subtended by a chord which bears North 19°20'02" East 159.63 feet; thence northeasterly along the curve concave to the east, a distance of 160.45 feet to a point; thence North 29°19'25" East, a distance of 306.42 feet to the beginning of a curve concave to the west having a radius of 205.05 feet and being subtended by a chord which bears North 01°09'11" West 208.05 feet; thence northerly along said curve, a distance of 218.20 feet to a 1/2" rebar found; thence North 31°34'41" West, a distance of 200.00 feet; thence North 31°34'41" West, a distance of 1489.75 feet to a 1/2" rebar set; thence North 59°26'23" East, a distance of 200.00

feet to the True point of beginning; thence North 30°34'58" West, a distance of 1088.04 feet; thence North 60°05'27" East, a distance of 200.22 feet; thence South 30°34'58" East, a distance of 1085.76 feet; thence South 59°26'23" West, a distance of 200.21 feet to the Point of Beginning. Containing 4.996 Acres, more or less.

Tract 3B Legal Description:

All that tract or parcel of land lying in or being in Land Lot 118, of the 4th District, City of Loganville, Walton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin and running North 59 degrees 26 minutes 23 seconds East for 400.21 feet to an iron pin found; THEN North 73 degrees 14 minutes 36 seconds East for 302.75 feet to an iron pin found; THEN South 38 degrees 44 minutes 00 seconds West for 752.90 feet to an iron pin found; THEN South 38 degrees 42 minutes 59 seconds East for 899.90 feet to an iron pin found; THEN South 60 degrees 23 minutes 19 seconds West for 399.55 feet to an iron pin found; THEN South 60 degrees 50 minutes 15 seconds West for 229.04 feet to a point; THEN North 19 degrees 30 minutes 29 seconds West for 93.50 feet; THEN North 28 degrees 49 minutes 33 seconds West for 135.52 feet to a point; THEN North 37 degrees 23 minutes 30 seconds West for 367.68 feet to a point; THEN North 23 degrees 12 minutes 50 seconds West for 98.84 feet to a point; THEN North 58 degrees 40 minutes 24 seconds East for 263.48 feet to a point; THEN North 36 degrees 55 minutes 19 seconds West for 530.13 feet to a point; THEN North 87 degrees 06 minutes 13 seconds West for 211.64 feet to a point; THEN South 55 degrees 41 minutes 56 seconds West for 28.12 feet to a point; THEN North 34 degrees 18 minutes 04 seconds West for 53.35 feet to a point; THEN North 56 degrees 59 minutes 33 seconds West for 42.52 feet to a point; THEN South 65 degrees 29 minutes 01 seconds West for 104.75 feet to a point; THEN North 30 degrees 44 minutes 30 seconds West for 110.05 feet to a point; THEN South 58 degrees 25 minutes 19 seconds West for 161.89 feet to a point; THEN North 31 degrees 34 minutes 41 seconds West for 151.04 feet to an iron pin found also being the point of beginning. Said Tract of land containing 17.881 acres and 778,881 square feet more or less.

Tract 4B Legal Description:

All that tract or parcel of land lying in or being in Land Lot 118, of the 4th District, City of Loganville, Walton County, Georgia, and being more particularly described as follows:

COMMENCING at an iron pin found on the North right of way of U.S. Highway 78 and running North 60 degrees 44 minutes 06 seconds East for 632.79 feet to the true Point of BEGINNING; THEN North 30 degrees 51 minutes 09 seconds West for 197.01 feet to a point; THEN North 00 degrees 53 minutes 05 seconds West for 110.88 feet; THEN South 83 degrees 57 minutes 37 seconds East for 58.27 feet to a point; THEN North 11 degrees 53 minutes 49 seconds East for 26.45 feet to a point; THEN North 12 degrees 59 minutes 07 seconds East for 93.33 feet to a point; THEN North 74 degrees 12 minutes 09 seconds West for 90.48 feet to a point; THEN North 19 degrees 30 minutes 29 seconds West for 58.07 feet to a point; THEN North 60 degrees 50 minutes 15 seconds East for 229.04 feet to an iron pin found; THEN North 60 degrees 23 minutes 19 seconds East for 399.55 feet to an iron pin found; THEN South 38 degrees 42

minutes 13 seconds East for 469.72 feet to an iron pin; THEN South 59 degrees 44 minutes 33 seconds West for 561.89 feet to an iron pin found; THEN South 60 degrees 44 minutes 06 seconds West for 264.69 feet to the Point of BEGINNING. Said Tract of land containing 7.859 acres and 342,317 square feet more or less.

Tract 5 Legal Description:

All that tract or parcel of land laying and being in the Land Lot 119 of the 4th District of Walton County, Georgia, and being more particularly described as follows:

Commencing at a point in the Centerline Intersection of U. S. Highway 78 and a 70' Ingress/Egress Easement road; thence North 23°34'43" East 78.05 feet to a PK nail in a sidewalk, on the northerly right of way of U. S. Highway 78; thence South 84°59'31" East 10.73 feet to a 1/2" rebar, thence continuing along said right of way South 84°55'18" East 1303.47 feet to a 1" Pipe at the True Point of Beginning; thence North 14°40'40" West, a distance of 404.20 feet to a nail found at a bent axle; thence North 88°11'24" West, a distance of 365.46 feet to a 1/2" pipe found; thence North 17°28'39" West, a distance of 158.90 feet to an iron pin found; thence North 59°44'33" East, a distance of 561.89 feet to a 1/2" rebar found at rock; thence South 09°20'12" East, a distance of 858.57 feet to a 1/2" rebar found on the northerly right of way of U.S. Highway 78; thence westerly along said right of way, North 84°47'43" West, a distance of 109.67 feet to the Point of Beginning.
Containing 4.775 Acres, more or less.

The above property also being more particularly described as follows:

All that tract or parcel of land lying and being in the Land Lot 119 of the 4th District of Walton County, Georgia, and being more particularly described as follows:

Commencing at a point in the Centerline Intersection of U. S. Highway 78 and a 70' Ingress/Egress Easement road; THEN North 23°34'43" East 78.05 feet to a PK nail in a sidewalk, on the northerly right of way of U. S. Highway 78; THEN South 84°59'31" East 10.73 feet to a 1/2" rebar, THENCE continuing along said right of way South 84°55'18" East 1303.47 feet to a 1" Pipe at the True Point of Beginning; THEN North 14°40'40" West, a distance of 404.20 feet to a nail found at a bent axle; THEN North 88°11'24" West, a distance of 365.46 feet to a 1/2" pipe found; THEN North 17°28'39" West, a distance of 158.90 feet to an iron pin found; THEN South 60°44'06" West, a distance of 264.69 feet to a point; THEN North 30°51'09" West, a distance of 197.01 feet; THEN North 00°53'05" West, a distance of 110.88 feet; THEN South 83°57'37" East, a distance of 58.27 feet; THEN North 11°53'49" East, a distance of 26.45 feet; THEN North 12°59'07" East, a distance of 93.33 feet; THEN North 74°12'09" West, a distance of 90.48 feet; THEN North 19°30'29" West, a distance of 151.57 feet; THEN North 28°49'33" West, a distance of 135.52 feet; THEN North 37°23'30" West, a distance of 367.68 feet; THEN North 23°12'50" West, a distance of 98.84 feet; THEN North 58°40'24" East, a distance of 263.48 feet; THEN North 36°55'19" West, a distance of 530.13 feet; THEN North 87°06'13" West, a distance of 211.64 feet; THEN South 55°41'56" West, a distance of 28.12 feet;

THEN North 34°18'04" West, a distance of 53.35 feet; THEN North 56°59'33" West, a distance of 42.52 feet; THEN South 65°29'01" West, a distance of 104.75 feet; THEN North 30°44'30" West, a distance of 110.05 feet; THEN South 58°25'19" West, a distance of 161.89 feet; THEN North 31°34'41" West, a distance of 151.04 feet to an iron pin set; THEN North 30°34'13" West, a distance of 1089.94 feet to a point on the right of way of Old Zion Cemetery Road, THEN along a curve concave to the southeast having a radius of 6942.73 and being subtended by a chord which bears North 59°47'46" East 71.45 feet; THEN northeasterly along said curve, a distance of 71.45 feet; THEN North 60°05'27" East tangent to said curve, a distance of 328.55 feet; THEN South 30°34'58" East, a distance of 1085.76 feet; THEN North 73°14'36" East, a distance of 302.75 feet; THEN South 38°44'00" East, a distance of 752.90 feet; THEN South 38°42'59" East, a distance of 899.90 feet; THEN South 38°42'13" East, a distance of 469.72 feet; THEN South 09°20'12" East, a distance of 858.57 feet; THEN North 84°47'43" West, a distance of 109.67 feet to the Point of Beginning. Containing 40.508 Acres, more or less.

Tract 3A Legal Description:

All that tract or parcel of land lying in or being in Land Lot 118, of the 4th District City of Loganville, Walton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found and running North 31 degrees 34 minutes 41 seconds West 1538.71 feet to a point; THEN North 58 degrees 25 minutes 19 seconds East for 161.89 feet to a point; THEN South 30 degrees 44 minutes 30 seconds East for 110.05 feet to a point; THEN North 65 degrees 29 minutes 01 seconds East for 104.75 feet to a point; THEN South 56 degrees 59 minutes 33 seconds East for 42.52 feet to a point; THEN South 34 degrees 18 minutes 04 seconds East for 53.35 feet to a point; THEN North 55 degrees 41 minutes 56 seconds East for 28.12 feet to a point; THEN South 87 degrees 06 minutes 13 seconds East for 211.64 feet to a point; THEN South 36 degrees 55 minutes 19 seconds East for 530.13 feet to a point; THEN South 58 degrees 40 minutes 24 seconds West for 263.48 feet to a point; THEN South 23 degrees 12 minutes 50 seconds East for 98.84 feet to a point; THEN South 37 degrees 23 minutes 30 seconds East for 367.68 feet to a point; THEN South 28 degrees 49 minutes 33 seconds East for 135.52 feet to a point; THEN South 19 degrees 30 minutes 29 seconds East for 93.50 feet to a point; THEN South 60 degrees 50 minutes 15 seconds West for 270.52 feet to an iron pin found, also being the Point of BEGINNING. Said Tract of land containing 12.737 acres and 554,813 square feet more or less.

Tract 4A Legal Description:

All that tract or parcel of land lying in or being in Land Lot 118, of the 4th District, City of Loganville, Walton County, Georgia, and being more particularly described as follows:

COMMENCING at a PK Nail found in the sidewalk which is the intersection of the right of way of U.S. Highway 78 and Trident Trail running along the curve of an arch for 21.06 feet, said curve to have a chord of North 07 degrees 59 minutes 02 seconds East for 21.06 feet and having a radius of 458.14 feet to the true Point of BEGINNING; THEN running along the curve of an arch for 160.45 feet, said curve to have a chord of North 19 degrees 20 minutes 02 seconds East for 159.63 feet and having a radius of 458.14 feet; THEN North 29 degrees 19 minutes 25 seconds East for 306.42 feet to a point; THEN running along the curve of an arch for 218.20 feet, said curve having a chord of North 01 degrees 09 minutes 11 seconds West for 208.05 and having a radius of 205.05 feet to an iron pin found; THEN North 60 degrees 50 minutes 15 seconds for 270.52 feet to a point; THEN South

19 degrees 30 minutes 29 seconds East for 58.07 feet to a point; THEN South 74 degrees 12 minutes 09 seconds East for 90.48 feet to a point; THEN South 12 degrees 59 minutes 07 seconds West for 93.33 feet to a point; THEN South 11 degrees 53 minutes 49 seconds West for 26.45 feet to a point; THEN North 83 degrees 57 minutes 37 seconds West for 58.27 feet to a point; THEN South 00 degrees 53 minutes 05 seconds East for 110.88 feet to a point; THEN South 30 degrees 51 minutes 09 seconds East 197.01 feet to a point; THEN South 60 degrees 44 minutes 06 seconds West for 618.98 feet to a point; THEN North 52 degrees 48 minutes 21 seconds West for 24.87 feet to the Point of BEGINNING. Said Tract of land containing 4.473 acres and 194,854 square feet more or less.

Property also being known as:

Phase Two Legal Description:

All that tract or parcel of land lying in or being in Land Lot 118, of the 4th District, City of Loganville, Walton County, Georgia, and being more particularly described as follows:

COMMENCING at a PK Nail found in the sidewalk which is the intersection of the right of way of U.S. Highway 78 and Trident Trail running along the curve of an arch for 21.06 feet, said curve to have a chord of North 07 degrees 59 minutes 02 seconds East for 21.06 feet and having a radius of 458.14 feet to the true Point of BEGINNING; THEN running along the curve of an arch for 160.45 feet, said curve to have a chord of North 19 degrees 20 minutes 02 seconds East for 159.63 feet and having a radius of 458.14 feet; THEN North 29 degrees 19 minutes 25 seconds East for 306.42 feet to the beginning of a curve concave to the west having a radius of 205.05 feet and being subtended by a chord which bears North 01°09'11" West 208.05 feet; THENCE along said curve, a distance of 218.20 feet to an iron pin found; THEN North 31°34'41" West, a distance of 1538.71 feet; THEN North 58°25'19" East, a distance of 161.89 feet; thence South 30°44'30" East, a distance of 110.05 feet; THEN North 65°29'01" East, a distance of 104.75 feet; THEN South 56°59'33" East, a distance of 42.52 feet; THEN South 34°18'04" East, a distance of 53.35 feet; THEN North 55°41'56" East, a distance of 28.12 feet; THEN South 87°06'13" East, a distance of 211.64 feet; THEN South 36°55'19" East, a distance of 530.13 feet; THEN South 58°40'24" West, a distance of 263.48 feet; THEN South 23°12'50" East, a distance of 98.84 feet; THEN South 37°23'30" East, a distance of 367.68 feet; THEN South 28°49'33" East, a distance of 135.52 feet; THEN South 19°30'29" East, a distance of 151.57 feet; THEN South 74°12'09" East, a distance of 90.48 feet; THEN South 12°59'07" West, a distance of 93.33 feet; THEN South 11°53'49" West, a distance of 26.45 feet; THEN North 83°57'37" West, a distance of 58.27 feet; THEN South 00°53'05" East, a distance of 110.88 feet; THEN South 30°51'09" East, a distance of 197.01 feet; THEN South 60°44'06" West, a distance of 618.98 feet; THEN North 52°48'21" West, a distance of 24.87 feet to the Point of Beginning. Containing 17.212 Acres, more or less.

Easement Parcel 2:

TOGETHER WITH easement rights and benefits created by and pursuant to that certain Temporary Construction, Access, and Utility Easement Agreement by and between NHT Loganville, LLC, a Delaware limited liability company and Georgia General Walton Development, Inc., a Georgia corporation and Otto Tract No. 1, LLC a Georgia limited liability company, dated November 20, 2020, filed November 24, 2020 and recorded in Deed Book 4722, Page 126, aforesaid records.