

**AMENDMENT TO 2014 MEMORANDUM OF UNDERSTANDING (MOU) & PARTNERSHIP
AGREEMENT FOR THE FORT KING SITE**

THIS AMENDMENT TO 2014 MEMORANDUM OF UNDERSTANDING (MOU) & PARTNERSHIP AGREEMENT FOR THE FORT KING SITE (the "Amendment") is executed by and between:

- City of Ocala, a Florida municipal corporation ("City").
- Marion County, a political subdivision of the State of Florida ("County").
- Fort King Heritage Association, Inc., a Florida not for profit corporation ("Heritage Association")

WHEREAS:

- A. On or about October 7, 2014, City, County and Heritage Association entered into a 2014 Memorandum of Understanding (MOU) & Partnership Agreement for the Fort King Site (the "Original Agreement") pursuant to which they agreed as to various matters concerning the development of and improvements to the Fort King Site¹ (the "Site," as defined in the Original Agreement and used herein).
- B. Section 1, A.2) contemplated that parcels of real property may be added to the Site.
- C. On October 7, 2014, City and County, as lessees, and the National Society Daughters of the American Revolution, Ocala Chapter No. 3-053-FL, Inc., a Florida not for profit corporation ("DAR") entered into a Lease Agreement (the "DAR Lease") pursuant to which City and County leased, from DAR, the real property (the "DAR Parcel") referred to therein and described in the attached Exhibit A.
- D. Heritage Association has recommended that the DAR Parcel be added to the Site.
- E. Heritage Association has entered into a contract (the "HIWM Purchase Contract") to acquire additional real property (the "HIWM Parcel") as described in the attached Exhibit B from Hole in the Water Marine, LLC, a Florida limited liability company ("HIWM").
- F. Heritage Association has obtained a grant (the "Grant") from Felburn Foundation, a Virginia not for profit corporation ("Foundation"), in the amount of \$80,000.00 to partially fund the purchase price of the HIWM Parcel.
- G. The HIWM Purchase Contract provides that the HIWM Parcel will revert (the "Reverter") to HIWM if the HIWM Parcel is transferred to a party which is not a tax exempt not for profit corporation or a governmental entity.
- H. Heritage Association has recommended that the HIWM Parcel be added to the Site.
- I. Heritage Association desires to either:

¹ Terms capitalized herein and not otherwise defined herein have the same meaning herein as in the Original Agreement.

- 1). Assign the HIWM Purchase Contract to City and County and have HIWM convey the HIWM Parcel directly to City and County; or
 - 2). Have HIWM convey the HIWM Parcel to Heritage Association, whereupon Heritage Association will immediately convey the HIWM Parcel to City and County.
- J. City and County are willing to add the DAR Parcel to the Site, accept title to the HIWM Parcel, and add the HIWM Parcel to the Site pursuant to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. **DAR Parcel.**

- 1.1. The Original Agreement is hereby amended to include the DAR Parcel as part of the Site.
- 1.2. Notwithstanding the foregoing, the DAR Parcel shall be included as part of the Site only during the term of the DAR Lease. Thus, upon the expiration or early termination of the DAR Lease, the DAR Parcel shall no longer be part of the Site.

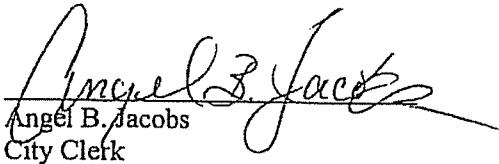
2. **HIWM Parcel.**

- 2.1. City and County acknowledge having reviewed the HIWM Purchase Contract as well as the title insurance commitment (the "Commitment") that has been issued for the HIWM Parcel.
- 2.2. City and County are willing to accept title to the HIWM Parcel as set forth in the HIWM Purchase Contract and Commitment. Without limiting the foregoing, City and County acknowledge and agree that the HIWM Parcel will be subject to the Reverter as set forth in the HIWM Purchase Contract.
- 2.3. Title to the HIWM Parcel will be conveyed to City and County pursuant to one of the following methods:
 - 2.3.1. Heritage Association will assign the HIWM Purchase Contract to City and County, and HIWM will thereafter convey the HIWM Parcel directly to City and County; or
 - 2.3.2. Heritage Association will have HIWM convey the HIWM Parcel to Heritage Association and, immediately following such conveyance, Heritage Association will execute and deliver a Special Warranty Deed for the HIWM Parcel to City and County.
 - 2.3.3. City will pay the cost of recording the deed that conveys title to City and County.
- 2.4. Heritage Association will pay, or cause HIWM to pay, all ad valorem taxes and assessments on the HIWM Parcel that accrue prior to the date of conveyance of the HIWM Parcel to City and County.

- 2.5. Following the conveyance of the HIWM Parcel to City and County pursuant to paragraph 2.3, the HIWM Parcel shall be included as part of the Site.
- 2.6. In the event that City and County hereafter convey the HIWM Parcel in a manner that triggers the Reverter, City and County shall pay to Foundation the sum of \$80,000.00, to reimburse Foundation for the Grant. City shall pay \$40,000.00 of such amount and County shall pay the other \$40,000.00; neither entity shall be responsible for the obligation of the other party under this paragraph. The provisions of this paragraph are for the benefit of Foundation even though it is not a party to this Agreement and may not be amended or deleted without the written consent of Foundation.
- 2.7. The provisions of this paragraph 2 are conditioned upon the City and County acquiring title to the HIWM Parcel pursuant to the HIWM Purchase Contract (as it may hereafter be amended pursuant to amendments that are approved by the respective directors of the City's Recreation and Parks Department and the County's Parks and Recreation Department), and the Commitment, on or before December 31, 2015. In the event that such condition does not occur prior to such date, the provisions of this paragraph 2 of this Amendment shall be deemed terminated without any additional action by City, County or Heritage Association, and shall not be effective. Such termination shall not affect paragraph 1 of this Amendment.
3. **Effect on Original Agreement.** Except as expressly set forth herein, the Original Agreement is not amended or modified. All references herein or in the Original Agreement to "this Agreement," "the Agreement," or similar terms shall be deemed to refer to the Original Agreement as amended hereby.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first written above.

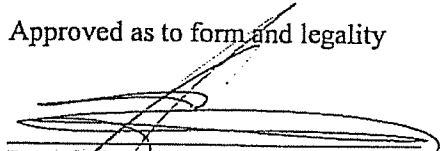
ATTEST:

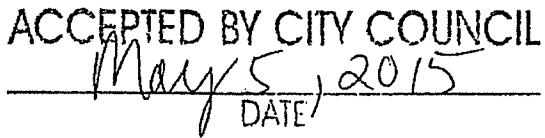

Angel B. Jacobs
City Clerk

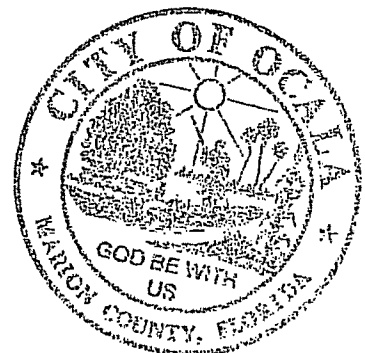
City of Ocala, a Florida municipal corporation


Jay A. Musleh
President, Ocala City Council

Approved as to form and legality


Patrick G. Gilligan
City Attorney

ACCEPTED BY CITY COUNCIL

DATE
OFFICE OF THE CITY CLERK



BOARD OF COUNTY COMMISSIONERS OF
MARION COUNTY, FLORIDA

By: Stan McClain
Stan McClain, Chair
BCC Approved: 5-5-15

ATTEST:

David R. Ellspermann
David R. Ellspermann, Clerk

Approved as to form and legality: Matthew Guy Minter
Matthew Guy Minter, County Attorney

Fort King Heritage Association, Inc., a Florida not
for profit corporation

By: Henry Sheldon
Henry Sheldon as President

**EXHIBIT A
DAR PARCEL**

**Real Property in Marion County, Florida, with Marion County Tax Parcel Identification Number
27619-000-00, and described as follows:**

**SEC 14 TWP 15 RGE 22
PLAT BOOK A PAGE 044
FT KING HAMMOCK
S 194 FT OF W 225 FT LOT 12**

EXHIBIT B
HIWM PARCEL

COMMENCE AT THE NW CORNER OF LOT 31 OF FT. KING HAMMOCK AS PER PLAT THEREOF
RECORDED IN PLAT BOOK "A", PAGE 44 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA,
THENCE N 89°32'57" E ALONG THE NORTH BOUNDARY OF SAID LOT 31, 631.91 FEET TO THE WEST
RIGHT OF WAY LINE OF THOMPSON AVENUE; THENCE SOUTH ALONG SAID WEST RIGHT OF WAY
LINE 60.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 344.18 FEET; THENCE S
89°36'14" W 335.54 FEET; THENCE NORTH 343.86 FEET; THENCE N 89°32'57" E, 335.53 FEET TO THE POINT
OF BEGINNING.

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**SECOND AMENDMENT TO 2014 MEMORANDUM OF UNDERSTANDING (MOU) &
PARTNERSHIP AGREEMENT FOR THE FORT KING SITE**

THIS SECOND AMENDMENT TO 2014 MEMORANDUM OF UNDERSTANDING (MOU) & PARTNERSHIP AGREEMENT FOR THE FORT KING SITE (the "Second Amendment") is entered into effective _____, 2019 (although it may be executed before or after such date), between:

- City of Ocala, a Florida municipal corporation ("City").
- Marion County, a political subdivision of the State of Florida ("County").
- Fort King Heritage Association, Inc., a Florida not for profit corporation ("Heritage Association")

WHEREAS:

- A. On or about October 7, 2014, City, County and Heritage Association entered into a "2014 Memorandum of Understanding (MOU) & Partnership Agreement for the Fort King Site" (the "Original Agreement") pursuant to which they agreed to various matters concerning the development of, and improvements, to the Fort King Site¹ (the "Site," as defined in the Original Agreement and used herein).
- B. On May 5, 2015, the City, County and Heritage Association entered into an "Amendment to 2014 Memorandum of Understanding (MOU) & Partnership Agreement for the Fort King Site" (the "First Amendment") pursuant to which the Original Agreement was amended. The Original Agreement, as amended by the First Amendment, is referred to as the "Amended Agreement."
- C. Real property (the "Dobbs Parcel"), as described in the attached **Exhibit A** and located contiguous to the Site, is available for purchase.
- D. City, County and Heritage Association desire for City and County to acquire title to the Dobbs Parcel and to add the Dobbs Parcel to the Site.

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Contract.

- 1.1. City is authorized to enter into a contract (the "Purchase Contract") with the owner of the Dobbs Parcel to acquire the Dobbs Parcel for Three Hundred Thousand and No/100 Dollars (\$300,000.00) with a closing date no earlier than October 1, 2019, and no later than December 31, 2019.
- 1.2. The Purchase Contract shall contain terms customarily found in similar contracts (except it may obligate City to pay closing costs that are customarily paid by the seller) and shall otherwise be acceptable to City in its reasonable discretion.
- 1.3. The Purchase Contract shall provide for City's ability to assign it at closing.

¹ Terms capitalized herein and not otherwise defined herein have the same meaning herein as in the Original Agreement.

- 1.4. At closing, City will assign the Purchase Contract to City and County, and therefore close in the names of City and County as joint tenants (consistent with its prior practice concerning the other components of the Site).
- 1.5. Upon the closing under the Purchase Contract, the Dobbs Parcel will be deemed included as part of the Site.
2. **Funding of Purchase Price.**
 - 2.1. The purchase price under the Purchase Contract will be funded by the parties as follows:
 - 2.1.1. City will fund one-third (1/3) of the purchase price (i.e., \$100,000.00) and will pay all closing costs (up to a total of \$10,000.00) under the Purchase Contract.
 - 2.1.2. County shall fund \$100,000.00 of the purchase price under the Purchase Contract with revenues from County's Tourist Development Tax program (the "TDT Revenue"). (See paragraph 3 concerning additional provisions concerning TDT Revenue.)
 - 2.1.3. Heritage Association will fund \$100,000.00 of the Purchase Price under the Purchase Contract.
 - 2.2. County and Heritage Association will provide their portions of the purchase price under the Purchase Contract to City sufficiently in advance of the closing for City to utilize such funds at the closing.
3. **TDT Revenue.** As County is using TDT Revenue collected pursuant to Section 125.0104, Florida Statutes, it is necessary to add these provisions to this Agreement.
 - 3.1. The parties agree that the Dobbs Parcel shall be used as the location of a museum (the "Museum") pursuant to Section 125.0104, Florida Statutes.
 - 3.1.1. As "museum" is not defined in such statute, the parties agree that it should have its plain and ordinary meaning, i.e., a building, place or institution devoted to the acquisition, conservation, study, exhibition and educational interpretation of objects having scientific, historical or artistic value.
 - 3.1.2. The Museum shall be open to the public, as set forth in Section 125.0104, Florida Statutes. The term "open to the public" is not defined in the statute and the parties hereby give the term its plain and ordinary meaning, i.e., available for or accessible to the general public use. It is understood that subsequent to Acquisition, the Dobbs Parcel shall undergo rehabilitation at the sole expense of City to prepare it for use as a Museum. For that reason, the requirement that the Museum be open to the public shall occur contemporaneously with the opening of the Museum which shall occur no later than October 1, 2020. County shall not be obligated to contribute any funds to the operation of the Museum.
 - 3.2. The Museum shall remain on the Dobbs Parcel located within the boundaries of Marion County (as Marion County is the county in which the TDT Revenue is levied and collected).

- 3.3. In the event that City desires to relocate the Museum, to another location within the Site, City may do so provided that, before relocating the Museum, City provides County and Heritage Association with at least two (2) months prior written notice of the proposed relocation including the location on the Site where the Museum will be relocated. Any such relocation may be several years in the future and, at that time, consistent with the long-term master plan, and in order to develop the site to be as authentic to the original fort as possible, the Dobbs house may then be demolished.
- 3.4. Following the relocation of the Museum, City will provide County and Heritage Association with a legal description of the portion of the Site upon which the Museum has been relocated, and this Agreement shall be deemed amended to reflect such new location (instead of the Dobbs Parcel) as being subject to the provisions of this paragraph 3; despite the new location, the Site and Dobbs Parcel shall continue to be owned by City and County as tenants in common. Thereafter, the Museum shall be in compliance with this paragraph 3 at the new location.
- 3.5. In the event that the Museum ceases to comply with the requirements of paragraph 3 of this Agreement, County may be required to reimburse its TDT Revenue account with other funds available to County, and County shall do so at its sole cost and expense. City will provide County with annual financial statements regarding the operations of the Museum, no later than December 1st of each year. City agrees to provide written notice to the County Administrator of City's intent to cease Museum operations at least one year prior to the end of the fiscal year preceding the City's final year of operations. City may not make other use of the Museum property unless it buys out the County's interest in the property by reimbursing to the County its contribution described in paragraph 2.1.2 herein.
4. **Contingency.** This Second Amendment is conditioned upon City and County acquiring title to the Dobbs Parcel pursuant to this Second Amendment. In the event that such condition does not occur prior to December 31, 2019, this Amendment shall be deemed terminated without any additional action by City, County or Heritage Association, and shall not be effective.
5. **Effect on Amended Agreement.** Except as expressly set forth herein, the Amended Agreement is not amended or modified. All references herein or in the Amended Agreement to "this Agreement," "the Agreement," or similar terms shall be deemed to refer to the Amended Agreement as amended hereby.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first written above.

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ATTEST:

City of Ocala, a Florida municipal corporation

Angel B. Jacobs
City Clerk

Mary S. Rich
President, Ocala City Council

Approved as to form and legality

Patrick G. Gilligan
City Attorney

**BOARD OF COUNTY COMMISSIONERS
OF MARION COUNTY, FLORIDA**

By: _____
Michelle Stone, Chair

ATTEST:

David R. Ellspermann, Clerk

Approved as to form and legality:

Matthew Guy Minter, County Attorney

Fort King Heritage Association, Inc., a Florida not
for profit corporation

By: _____
William H. McCall as President

**EXHIBIT A
DOBBS PARCEL**

The following real property with Marion County Tax Parcel ID #: 27618-000-00:

The South 194 feet of Lot 13, EXCEPT the East 50 feet thereof, and the East 40 feet of the South 194 feet of Lot 12, ALSO EXCEPTING a strip 10 feet wide along the South boundary of said tracts for street use, said lots shown on plat of FORT KING HAMMOCK, being the NW 1/4 of Section 14, Township 15 South, Range 22 East; and recorded in: Plat Book A, page 44, Public Records of Marion County, Florida.

EXCEPT: Beginning at the Southwest corner of the following described property:

The South 194 feet of Lot 13, EXCEPT the East 50 feet thereof, and the East 40 feet of the South 194 feet of Lot 12, ALSO EXCEPTING a strip 10 feet wide along the South boundary of said tracts for street use, said lots shown on plat of FORT KING HAMMOCK, being the NW 1/4 of Section 14, Township 15 South, Range 22 East; and recorded in Plat Book A, page 44, Public Records of Marion County, Florida; thence N.00°19'16"E. 184.00 feet; thence S.89°57'47"E. 120 feet; thence S.04°58'47"W. 184.69 feet; thence N.89°57'47"W. 105.00 feet to the Point of Beginning.

Subject to Road right of way over the South 30.00 feet of the NW 1/4 as recorded in Deed Book 199, page 536; and taxes accruing after December 31, 1994, and subsequent years.

The following real property with Marion County Tax Parcel ID #: 27618-001-00:

Beginning at the SW corner of the following described property:

The South 194 feet of Lot 13, Except the East 50 feet thereof; and the East 40 feet of the South 194 feet of Lot 12, also excepting a strip 10 feet wide along the South boundary of said tracts for street use. Said lots shown on plat of Ft. King Hammock, being the NW 1/4 of Section 14, Township 15 South, Range 22 East, and recorded in Plat Book A, page 44 of the Public Records of Marion County, Florida.

Thence N.00°19'16"E. 184.00 feet; thence S.89°57'47"E. 120 feet; thence S.04°58'47"W. 184.69 feet; thence N.89°57'47"W. 105.00 feet to the Point of Beginning