

Recording Costs: \$ _____

This Instrument Prepared by and Record and Return to:
W. James Gooding III
Gooding & Batsel, PLLC
1531 SE 36th Avenue
Ocala, FL 34471

**FIFTH AMENDMENT TO
DEVELOPMENT AGREEMENT
PURSUANT TO CHAPTER 163, FLORIDA STATUTES**

THIS FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into this ____ day of _____, 2025, by and between:

- **CITY OF OCALA, a Florida municipal corporation** (the “City”); and
- **NEW OLD TOWN VILLAGE, LLC, a Florida limited liability company** (“Successor Developer”).

RECITALS:

- A. On or about November 26, 2002, the City and August Properties, Inc., a Florida corporation, Autumn Homes, Inc., a Florida corporation, and Arthur I. Appleton entered into a Development Agreement Pursuant to Chapter 163, Florida Statutes, recorded in Official Records Book 3369, Page 1080, Public Records of Marion County, Florida (the “Original Development Agreement”).
- B. On August 26, 2003, the City entered into a First Amendment to Development Agreement with Lowe’s Home Center, Inc. Homeland, LLC and Richard Shultz and Deborah D. Shultz, his wife, covering the property now occupied by Lowe’s home Improvement Center, which was recorded in Official Records Book 3606, Page 1745, Public Records of Marion County, Florida (hereinafter the “First Amendment”).
- C. On July 24, 2007, The City entered into a Second Amendment to Development Agreement with Old Town Village Partners, LLC, a Florida Limited Liability Company (“Old Town”) covering the property owned by Old Town, which was recorded in Official Records Book 4959, Page 1196, Public Records of Marion County, Florida (hereinafter the “Second Amendment”).
- D. On April 7, 2009, The City entered into a Third Amendment to Development Agreement with Uttermost Properties, LLC, a Florida Limited Liability Company (“Uttermost”) covering the property owned by Uttermost which was recorded in Official Records Book 5230, Page 683, Public Records of Marion County, Florida (hereinafter the “Third Amendment”).
- E. On December 15, 2015, The City entered into a Fourth Amendment to Development Agreement with Lowe’s Mark Center, LLC a Florida Limited Liability Company (“Lowes”) covering the property owned by Lowes which was recorded in Official Records Book 6321, Page 241, Public Records of Marion County, Florida (hereinafter the “Fourth Amendment”). The Original Development Agreement as amended by the First Amendment, by the Second Amendment, by the Third Amendment and by the Fourth Amendment is hereinafter referred to as the “Development Agreement”.

- F. Successor Developer is currently the owner of the following described property formerly owned by Old Town (the “Property”):

Lot 3, LOWE’S AUTUMN COMMERCIAL CENTER, as per plat
recorded in Plat Book 7, Pages 171 and 172, Public Records of Marion
County, Florida,

which is a portion of the Property encumbered by the Original Development Agreement.

- G. Successor Developer has entered into an agreement with NSC Silver Springs, LLC, a Florida limited liability company (“NSC”), to swap the real property described on Exhibit “A”, which is subject to the Original Development Agreement, for the real property owned by NSC described on Exhibit “B”.
- H. The City and Successor Developer desire to amend the Original Development Agreement as set forth herein.
- I. The City Council of the City has published notice of its intent to consider entering into this Agreement and has held public hearings on June 9, 2025 and on June 17, 2025, to consider this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Successor Developer agree as follows.

- 1. Incorporation of Recitals.** The foregoing recitations are true and correct and are hereby incorporated herein by reference.
- 2. Background.**
 - 2.1. The development of the land described on Exhibit “A” shall be subject to an approved Planned Development (“PD”) zoning or, if no such zoning is approved, a separate written agreement between the City and NSC.
 - 2.2. Paragraphs 6(a)(1) and 6(a)(3) established buffering requirements, including for that portion of the Property abutting Glynnwood Subdivision. A portion of such Property abutting Glynnwood Subdivision is being released from the buffering requirements of such paragraphs pursuant to paragraph 3.3 below; that portion shall be buffered pursuant to the PD zoning or separate agreement as set forth in paragraph 2.1. The portion of the Property not released shall remain subject to paragraph 6(a)(1) and paragraph 6(a)(3).
- 3. Partial Release.**
 - 3.1. The City releases the real property described on Exhibit “A” hereto from all the terms of the Original Development Agreement.
 - 3.2. Successor Developer submits the real property described on Exhibit “B” to all the terms of the Original Development Agreement.

- 3.3. The City releases that portion of the Property lying adjacent to Lots 5 through 9, Block I, Glynwood Unit 4, as per plat thereof recorded in Plat Book H, Page 6, Public Records of Marion County, Florida, less and except the South 50' thereof from the buffering requirements set forth in Paragraphs 6(a)(1) and 6(a)(3) of the Original Development Agreement.
4. **Cross Access.** Paragraph 6(c)(2) is amended to read: “The City shall not require, but the Developer may provide cross access rights between the Property and NE 49th Avenue lying north of the residential development in Glynwood Subdivision.”
5. **Effect on the Original Development Agreement.** Successor Developer submits the real property described on Exhibit “B” to all terms of the Original Development Agreement.
 - 5.1. The Original Development Agreement is amended to the extent set forth herein.
 - 5.2. Except as set forth herein the Original Development Agreement is not amended or modified.
 - 5.3. All references in the Original Development Agreement or herein to this Agreement or similar terms, shall be deemed to refer to the Original Development Agreement as amended hereby.

THEREFORE, the parties hereto have executed this Agreement effective the date first set forth above.

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SIGNATURES START ON NEXT PAGE**

ATTEST:

CITY OF OCALA a Florida municipal corporation

ANGEL B. JACOBS, City Clerk

BY: _____
KRISTEN M. DREYER,
President Ocala City Council

Approved as to form and legality

WILLIAM SEXTON, City Attorney

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization this _____ day of _____, 2025, by **KRISTEN M. DREYER, President of OCALA CITY COUNCIL**, on behalf of the City, () who is personally known to me, or () who produced _____, as identification.

Notary Public, State of Florida
My Commission Expires:

Signed, sealed and delivered
in our presence as witnesses:

NEW OLD TOWN VILLAGE. LLC,
a Florida limited liability company

Witness #1 Signature

BY: _____
KENNETH B. KIRKPATRICK,
Its Manager

Witness #1 Printed Name

Witness #1 Address

Witness #2 Signature

Witness #2 Printed Name

Witness #2 Address

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me, by means of ___ physical presence or ___
online notarization this _____ day of _____, 2025, by **KENNETH B. KIRKPATRICK,**
Manager of NEW OLD TOWN VILLAGE, LLC, a Florida limited liability company, on behalf of
said company, () who is personally known to me, or () who produced
_____ as identification.

Notary Public, State of Florida
My Commission Expires:

EXHIBIT "A"

DESCRIPTION:

A PARCEL OF LAND IN THE N.E. 1/4 OF SECTION 11, TOWNSHIP 15 SOUTH, RANGE 22 EAST, MARION COUNTY, FLORIDA, ALSO BEING A PORTION OF LOT 3 OF LOWE'S AUTUMN COMMERCIAL CENTER, AS RECORDED IN PLAT BOOK 7, PAGE 171 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF GLYNNWOOD UNIT FOUR, AS RECORDED IN PLAT BOOK H, PAGE 6, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTH RIGHT OF WAY LINE OF STATE ROAD NO. 40 (BEING A 200 FOOT RIGHT OF WAY) (ALSO KNOWN AS EAST SILVER SPRINGS BOULEVARD), THENCE DEPARTING SAID SOUTH RIGHT OF WAY LINE, ALONG THE WEST BOUNDARY OF SAID GLYNNWOOD UNIT 4 AND THE EAST BOUNDARY OF THE AFOREMENTIONED LOT 3 OF LOWE'S AUTUMN COMMERCIAL CENTER, S.00°01'29"E., A DISTANCE OF 290.21 FEET; THENCE DEPARTING SAID EAST AND WEST BOUNDARIES, N.36°03'28"W., A DISTANCE OF 234.69 FEET TO A POINT ON THE AFOREMENTIONED SOUTH RIGHT WAY OF LINE OF STATE ROAD NO. 40; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, N.53°56'32"E., A DISTANCE OF 170.72 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 0.46 ACRES MORE OR LESS.

EXHIBIT "B"

DESCRIPTION:

A PARCEL OF LAND LYING IN THE N.W. 1/4 OF SECTION 12, TOWNSHIP 15 SOUTH, RANGE 22 EAST, MARION COUNTY, FLORIDA, ALSO BEING PORTIONS OF LOTS 6 THROUGH 9, BLOCK I, AS RECORDED GLYNNWOOD UNIT FOUR, AS RECORDED IN PLAT BOOK H, PAGE 6, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA, A PORTION OF N.E. 47TH COURT AS SHOWN ON SAID PLAT. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID GLYNNWOOD UNIT FOUR, SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD NO. 40 (BEING A 200 FOOT RIGHT OF WAY) (ALSO KNOWN AS EAST SILVER SPRINGS BOULEVARD); THENCE DEPARTING SAID SOUTH RIGHT OF WAY LINE, ALONG THE WEST BOUNDARY OF SAID GLYNNWOOD UNIT 4, S.00°01'29"E., A DISTANCE OF 290.21 FEET TO THE POINT OF BEGINNING. THENCE DEPARTING SAID WEST BOUNDARY, S.36°03'28"E., A DISTANCE OF 186.37 FEET; THENCE S.00°15'25"E., A DISTANCE 157.99 FEET TO A POINT ON THE SOUTH BOUNDARY OF LOT 9, BLOCK F OF SAID GLYNNWOOD UNIT FOUR; THENCE ALONG SAID SOUTH BOUNDARY, S.89°44'35"W., A DISTANCE OF 110.27 FEET TO THE S.W. CORNER OF SAID LOT 9; THENCE DEPARTING SAID SOUTH BOUNDARY, ALONG THE WEST BOUNDARY OF SAID GLYNNWOOD UNIT 4, N.00°01'29"W., A DISTANCE OF 309.14 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 0.59 ACRES MORE OR LESS.

P:\JG\Rudniansyn Todd\Old Town Village\Dev K\New Old Town Village Fifth Amendment to Development Agreement JG 6-3-25.docx