

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING
FOR CADE MUSEUM & DEPOT PARK

This First Amendment to the Memorandum of Understanding ("MOU") is entered into this 11th day of February, 2013 between the City of Gainesville, a municipal corporation (the "City") and the Cade Museum Foundation, Inc. ("Museum"), together referred hereto as the ("Parties") regarding redevelopment of an approximately 2-acre site ("Site") within the limits of certain real property referred to generally as Depot Park ("Park") for purposes of establishing a museum.

WHEREAS, the City owns the Park and has designated the Gainesville Community Redevelopment Agency ("CRA") as its lead agent for the redevelopment of the Park, the features of which are intended to include the depot building, stormwater management ponds, bike paths, walking trails and play areas to be operated by the City for the purposes of public recreation and stormwater management. For purposes of this MOU, references to the CRA shall be considered references to the City; and

WHEREAS, the Museum intends to build, operate and maintain a museum within the Park on an approximately two acre site and which museum shall have inspiration, invention and innovation as its guiding principles; and

WHEREAS, the City and CRA jointly issued a letter to the Museum dated February 26, 2009 expressing the City's support of the museum project envisioned at the Park and expressing the City's commitment to the development of the Park; and

WHEREAS, the City and the Museum desire to improve the Park, and in particular the Site, into a setting in which the museum can succeed and promote the educational and cultural well-being of the citizens of Gainesville.

WHEREAS, the Parties entered into a Memorandum of Understanding on the 2nd day of October, 2012, that generally sets forth the intent of the Parties regarding the redevelopment of certain property at Depot Park for the purpose of establishing a museum (the "Site"); and

WHEREAS, the Parties desire to amend the Memorandum of Understanding to allow additional time to negotiate an agreement that sets forth the terms and conditions for the disposition and development of the Site;

NOW THEREFORE, the Memorandum of Understanding between the Parties is amended to read as follows:

1. **Purpose.** The Museum and the City wish to set forth the general understandings

between the Parties leading to the further negotiation and execution of a disposition and development agreement. It is the intent of the Parties that the Park and Museum projects will transform the area and thereby eliminate slum and blight, increase the tax base within the Downtown Community Redevelopment Area and grow the overall economy of the City by promoting tourism, economic development, recreation and educational activities.

2. **Project.** The development of the Museum within the Park is referred to herein as the "Project." The Project area is approximately depicted on the attached Exhibit "A." The Museum shall, at its sole expense, design, construct and operate an approximately 45,000 square foot museum that is open to the general public. It is anticipated that construction of the Project shall begin no later than three years from October 2, 2012.

3. **Duties of the Parties.**

a. The Parties shall assign staff to work productively and cooperatively on the Project. For purposes of this MOU, the CRA Director shall serve as the primary City contact person and the Museum Executive Director shall serve as the primary Museum contact person.

b. The City has planned Park improvements and infrastructure, including but not limited to, parking, stormwater management and lighting and utilities, bike paths, walking trails and play areas. Some of this infrastructure may be available to serve the Project and therefore, the City intends to coordinate its project management, engineering, and construction with the Museum.

c. The Parties shall have ongoing discussions to best determine how the Museum and the Park may coordinate to benefit the community, and to identify infrastructure and other design efficiencies that will reduce operating costs, or otherwise benefit the Parties and citizens using the Park and the Museum.

d. On or before January 31, 2013, the City shall provide a draft disposition and development agreement (the "development agreement") for the Project for review by the Museum. The draft development agreement shall include, without limitation, the method of transfer and possession of the site, identification of the site, a maximum timeframe and requirements for the construction of the Project, permits and liens, a minimum term of years upon completion of construction, provisions for access and parking, operational funding and closure of the Museum, maintenance and payment of fees and taxes.

4. **Zoning, Land Use, and Preliminary and Post-Development Approvals.** The Property depicted on Exhibit "A" currently has the City of Gainesville Land Use of Public Facilities (PF) and Zoning of Public Services (PS). The Parties recognize that the City, in its regulatory capacity, is the government entity vested with authority to grant or deny site development approvals. It is the intent of the Museum to maximize its use of the entire

Site for the perpetuation of the purposes of the Museum, including, without limitation, inclusion of food service, gift shop, and service of alcohol. The Parties agree that nothing contained in this MOU shall be interpreted or construed as an approval, waiver or contract to approve or waive any governmental requirement that the City has jurisdiction over in its regulatory capacity. Nothing contained in this MOU shall be interpreted or construed as contracting away the exercise of regulatory powers of the City. In addition, the City, as owner of the property, will cooperate with the Museum in securing necessary permits from other governmental or quasi-governmental owned or controlled entities, agencies, or subdivisions thereof, including without limitation Alachua County, St. Johns River Water Management District, Florida Department of Transportation and Florida Department of Environmental Protection.

5. Environmental.

a. The Parties acknowledge that the Park is designated a Brownfield Area under Section 376.80 Florida Statutes (the Florida Brownfields Act) based on documented soil and groundwater impacts from offsite releases of manufactured gas plant wastes and onsite releases of industry-related heavy metals and organic contaminants.

b. The City is committed to remediating the impacts according to Remedial Action Plans approved by the Florida Department of Environmental Protection (FDEP) that specify cleanup target levels protective of public recreational use.

c. To ensure public safety, the FDEP requires the City to restrict the use of the Site through the imposition of a Restrictive Covenant (RC) for conditional site closure addressing all documented contaminants. The RC will constrain future onsite activities with regard to contact with soil caps, other soils and groundwater. It is the intention of the City to initiate conditional site closure after completion of all planned soil capping and subsequent site-specific sampling; however, the City may pursue an interim RC as appropriate to expedite Park development.

d. The conditions of the RC are presently un-specified. FDEP has provided the City with conceptual conditions as follows, which are subject to modification:

1. The City will survey all capped areas.
2. Tenants/Lesseees and transferees shall execute an agreement indicating consent to the RC.
3. Excavation below the soil cap shall be managed as a contaminated soil excavation. The soil cap depth is two feet. If contaminated soil cannot be returned to its original position, FDEP-approved disposal will be required.

4. Additional soil sampling shall be conducted in the areas to be excavated to confirm that contaminant concentrations achieve approved cleanup target levels.
5. Construction work should be properly managed to prevent spreading contaminated soil onto capped areas and measures should be taken to minimize worker exposure to dust and soil.

e. The Parties agree that the Museum construction plans are presently undefined and thus their impacts on contaminants, both known and unknown, below two feet in depth are not foreseeable. Parties further agree to evaluate the risks and liability of any existing environmental contamination issues and develop a plan to address same in the context of furthering the plan for redevelopment.

f. The Museum will exercise a conservative construction approach so as to minimize contact with below grade unknown conditions and otherwise comply with the RC and any other regulatory requirements.

6. Negotiations/Conveyance. The City has authorized the CRA to negotiate with the Museum for the purpose of determining the disposition and development terms and conditions, which may include the provision of parking, the paving of parking lots, payment of property taxes and sales tax, build-out costs, deed or deed or lease restrictions, and any other terms and conditions deemed necessary and relevant by the Parties. The surveyed boundary lines depicted on Exhibit "B" shall be used to facilitate the intent and purpose of this MOU. It is the intent that a disposition and development agreement shall be executed no later than December 31, 2013.

7. Design and Construction Coordination. The Parties to the MOU agree that a coordinated design and construction approach is the preferred method of delivering the Park and Museum projects. To the greatest extent possible, the Parties shall communicate design plans to each other and coordinate on decisions regarding all matters of design, materials and construction. Notwithstanding the cooperative efforts of the Parties referenced herein, the Park and the Museum are separate projects of their respective proponents and not joint ventures of the Parties.

8. Term. Unless sooner terminated by the Parties, this MOU will become effective upon execution by both Parties and will terminate when the disposition and development agreement for the Project is entered into by the City and the Museum. The Parties may terminate this MOU and any amendment at any time by mutual written agreement. The Museum may terminate this MOU together with any amendment(s) at any time.

9. Notice. Any notice of termination from either party to the other party must be in writing and sent by certified mail, return receipt requested, or by personal delivery with receipt. Notices shall be sent to the following:

Museum: Executive Director, Cade Museum Foundation, Inc.
904 South Main Street
Gainesville, FL, 32601

City: City Manager, City of Gainesville
P.O. Box 490, Station 6
Gainesville, FL, 32627

A party may, in its sole discretion, change its address for purposes of this MOU by giving the other Parties party written notice of such as provided herein.

10. Project Records. The Parties will retain all records relating to this MOU together with any amendment(s) in accordance with the public records law. The Parties will make available any records relating to this MOU and any amendment(s) for copying and inspection upon written request of the other. Records which relate to any litigation, appeals or settlements of claims arising from the project records shall be maintained and made available until a final disposition has been made of such litigation, appeals, or claims.

Entire MOU. This First Amendment to the MOU constitutes the entire agreement of the Parties with respect to the Project and supersedes the Memorandum of Understanding dated October 2, 2012, and all prior written or oral agreements, understandings, or representations.

AGREED TO AND ACCEPTED this 19th day of January, 2013, by
the CADE MUSEUM FOUNDATION, INC.

By: Richard Miles

Richard Miles, its Vice President

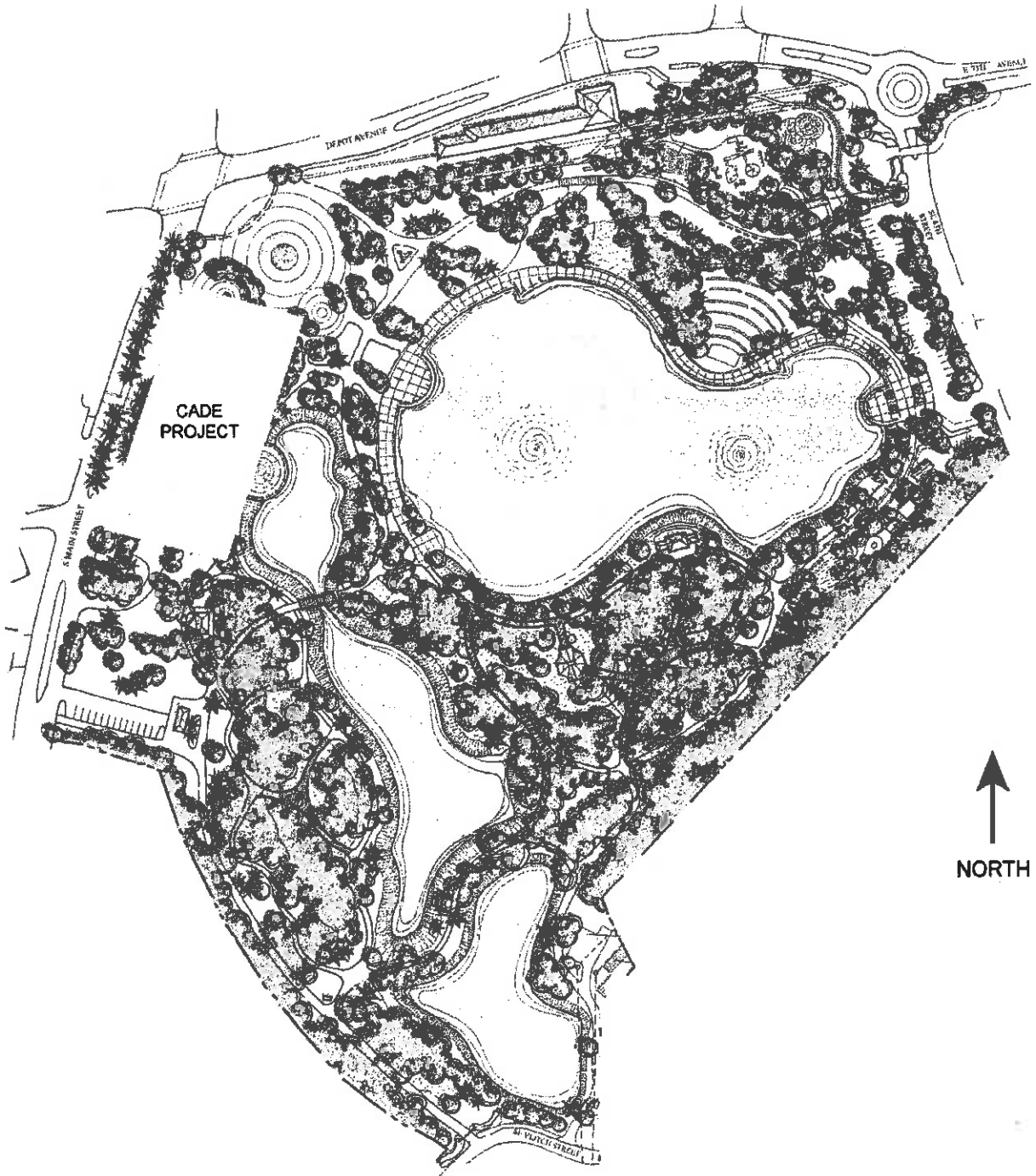
AGREED TO AND ACCEPTED this 19th day of February, 2013, by
the CITY OF GAINESVILLE

By: Russ Blackburn
Russ Blackburn, its City Manager

Approved as to Form and Legality
By: Nicolle M. Shalley
Nicolle M. Shalley
City Attorney

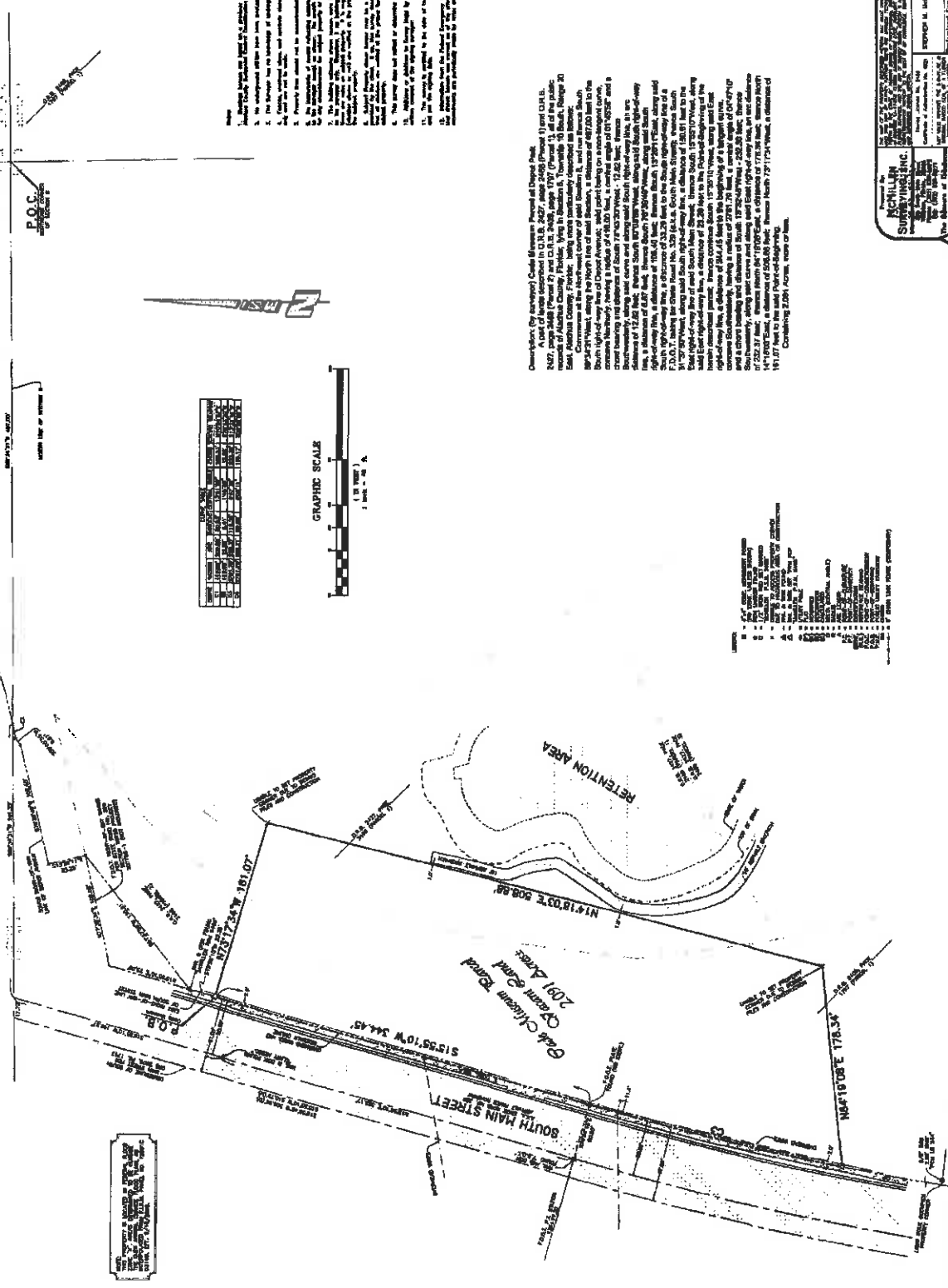
CADE MOU EXHIBIT "A"

DEPOT PARK MASTER PLAN WITH CADE PROJECT



CADE NO. 10 EXHIBIT 'W'

Map of Boundary Survey
Lying in Sections 8, Township 10 South,
Range 20 East, Alachua County, Florida



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DESCRIPTION: (By Survey) Cade Between Parcel of Deed No. 14 and O.S. 11, 1877, page 2488 (Parcel 2) and O.S. 11, 1877, page 1792 (Parcel 1), all of the public records of Alachua County, Florida, lying in Sections 8, Township 10 South, Range 20 East, Alachua County, Florida, being more particularly described as follows: ...

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