

**MEMORANDUM OF UNDERSTANDING  
REGARDING SHARED USE OF GARAGES**

This Memorandum of Understanding Regarding Shared Use of Garages (hereinafter referred to as the “MOU”) is made on this \_\_\_\_day of \_\_\_\_\_, 2021, by and between the Heritage Oak Park Community Development District, whose address is c/o Inframark Infrastructure Management Services, 5911 Country Lakes Boulevard, Fort Myers, FL 33905 (hereinafter referred to as the “District”), and the Heritage Oak Park Community Association, whose address is 19520 Heritage Oak Boulevard, Port Charlotte, FL 33948 (hereinafter referred to as the “Association”):

**WHEREAS**, the District is the owner of a garage located at 19520-Heritage Oak Blvd. (the “Maintenance Garage”); and

**WHEREAS**, the Association is the owner of a garage located at 19325 Water Oak Drive, Port Charlotte, FL 33948 (the “Storage Garage”); and

**WHEREAS**, the District and the Association have determined it is in the collective best interest of the parties to share the use of the Maintenance Garage and the Storage Garage; and

**WHEREAS**, the District and the Association mutually desire to enter into this MOU to set forth the terms and conditions of the shared use of the Maintenance Garage and the Storage Garage by the parties;

**NOW THEREFORE**, in consideration of the mutual covenants and obligations contained herein, it is agreed as follows:

**Section 1 - Recitals**

The above recitals are true and correct and are hereby incorporated fully by reference.

**Section 2 - Purpose**

The purpose of this MOU is to outline the terms and conditions of the shared use of the Maintenance Garage and the Storage Garage by the District and the Association.

**Section 3 – Maintenance Garage**

- The District and its maintenance personnel shall be entitled to continue its use of the Maintenance Garage for general maintenance-related purposes.
- At no charge to the Association, the Association and its maintenance personnel shall also be entitled to use the Maintenance Garage for general maintenance-related purposes.

- To the extent practicable, the parties shall evenly share the available space in the Maintenance Garage for performing maintenance-related activities and for storage of any equipment or materials.
- The District and the Association shall equally share in any and all costs for providing electrical services to the Maintenance Garage.
- The maintenance personnel for the parties shall insure that their respective work areas in the Maintenance Garage are reasonably cleaned at the end of each workday and thoroughly cleaned on the last workday of each week.

#### **Section 4 – Storage Garage**

- The Association shall be entitled to continue its use of the Storage Garage for general storage-related purposes.
- At no charge to the District, the District shall also be entitled to use the Storage Garage for general storage-related purposes.
- To the extent practicable, the parties shall evenly share the available space in the Storage Garage for the storage of any equipment or materials.
- The maintenance personnel for the parties shall insure that their respective storage areas in the Storage Garage are reasonably cleaned at the end of each workday and thoroughly cleaned on the last workday of each week.

#### **Section 5 - Understanding**

It is mutually agreed upon and understood by and amongst the District and the Association that:

- a. A full and complete inventory, including written documentation and photographs, of each Garage shall be finalized and approved, in writing, respectively, by an authorized representative of both the District and the Association, prior to any items being moved from one Garage to the other or the use of either Garage by the non-owner party.
- b. Sharing of tools and equipment between the parties is permissible. Any borrowed tool or piece of equipment shall be documented in the designated “Tool Log” and shall include a description of the item borrowed, the date and time borrowed, and the date and time returned. The borrowing party shall assume all risks with respect to the use of any borrowed tool or piece of equipment. Further, the borrowing party shall be responsible for any damages which occur to any borrowed item while being used by the borrowing party.

- c. Subject to the approval of an authorized representative of both the District and the Association, the maintenance personnel for both parties may collaborate on a time-sensitive project or a project that requires additional personnel to insure the safe and satisfactory completion of the project. Any such arrangement shall be limited in time to one (1) workday or less. At all times, maintenance personnel shall remain the employee of its designated employer and nothing herein shall be construed as to create an employer-employee relationship between the maintenance personnel for one party and the other party.
- d. Nothing in this MOU shall obligate any party to expend any specific funds with respect to the maintenance or upkeep of the other party's Garage unless provided for specifically herein.
- e. This MOU is not intended to and does not create any right, benefit, or trust responsibility.

**Section 6 – Liability and Insurance; Indemnification**

No liability will arise or be assumed between the District and the Association as a result of this MOU.

The District shall remain responsible for properly insuring the Maintenance Garage and its contents. The Association shall remain responsible for properly insuring the Storage Garage and its contents.

To the extent permissible under Florida law and without waiving any applicable rights of sovereign immunity, the parties mutually agree to indemnify, defend, and hold harmless each other against any and all claims, liabilities, losses, and damages whatsoever related to this MOU arising from injury to persons or property occasioned wholly or in part by any negligent act or omission of the indemnifying party.

**Section 7 - Dispute Resolution**

In the event of a dispute between the District and the Association regarding any activities anticipated by this MOU, any such disputes will attempt to be resolved by the Chair of the District and the President of the Association.

**Section 8 – Term and Termination**

The term of this MOU shall remain in place from March 1<sup>st</sup>, 2021 until August 31<sup>st</sup>, 2021.

This MOU may be terminated with cause by providing the other party written notice stating the reason for termination and providing the receiving party ten (10) days to resolve the issue giving rise to the cause for termination. If after ten (10) days, the matter remains unresolved, the MOU may be immediately terminated.

This MOU may be terminated without cause by providing the other party ninety (90) days written notice.

In the event this MOU is terminated, the respective parties shall remove all items owned by that party from the other party's Garage on or prior to the date of termination. Failure to timely remove any items may result in removal and disposal of any such items by the party that owns that Garage, and the party failing to remove its items shall be responsible for reimbursement of any costs associated with removal and disposal of said items.

### **Section 9 - Notice**

Any notice or communication required or permitted under this MOU shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. When designating such notice or communication, if to the District, notice should be directed to the District Manager; if to the Association, notice should be directed to the President of the Association.

### **Section 10 - Governing Law**

This MOU shall be construed in accordance with the laws of the State of Florida.

### **Section 11 - Assignment**

Neither party may assign or transfer the responsibilities or agreement made herein without the prior written consent of both parties.

### **Section 12 - Entire Agreement**

This MOU represents the entire understanding of the respective parties hereto and there is no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

### **Section 13 - Amendment**

This MOU may be amended or supplemented in writing if approved by both parties.

### **Section 14 - Severability**

If any provision of this MOU may be found to be invalid or unenforceable for any reason, such invalidity shall not affect the other remaining provisions of this MOU which can be given effect without the invalid provisions.

**Section 15 - Effective Date**

This MOU shall become effective upon the execution by the last party hereto.

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IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding Regarding Shared Use of Garages on the dates indicated below.

**HERITAGE OAK PARK  
COMMUNITY DEVELOPMENT DISTRICT**

By: \_\_\_\_\_  
Paul Falduto, Chairman

Date: \_\_\_\_\_

**HERITAGE OAK PARK  
COMMUNITY ASSOCIATION**

By: \_\_\_\_\_  
Steven Horsman, President

Date: \_\_\_\_\_