

**MEMORANDUM OF AGREEMENT
BETWEEN**

**CLAY COUNTY
AND
THE CITY OF GREEN COVE SPRINGS
USAGE OF CLAY COUNTY GUN RANGE**

This Memorandum of Agreement (“MOA”) is entered into this ____ day of September, 2023, between Clay County, a political subdivision of the State of Florida (the “County”) and the City of Green Cove Springs, a municipal corporation of the State of Florida (“Green Cove Springs”), whose address is 321 Walnut St., Green Cove Springs, Florida 32043.

RECITALS

WHEREAS, the County owns 158 acres of land located off County Road 215 in Middleburg on a portion of which it has constructed a Gun Range consisting of a covered building and firing range (“CCGR”); and

WHEREAS, Green Cove Springs’ police officers require regular firearms training to maintain the safety certifications necessary to serve as law enforcement officers; and

WHEREAS, Clay County presently has no firing range available for law enforcement officers to use for training and testing; and

WHEREAS, the County and the Clay County Sheriff entered into a Memorandum of Agreement granting the Sheriff’s office priority use of the CCGR with designated days for use separate from use by the general public; and

WHEREAS, the County wishes to grant the Green Cove Springs Police Department use of the CCGR on the days designated for use by the Clay County Sheriff and other law enforcement agencies to the exclusion of the general public; and

WHEREAS, the County and Green Cove Springs intend to formalize their agreement with regard to the use of the CCGR

NOW THEREFORE, in consideration of the foregoing recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the County and Green Cove Springs agree as follows:

1. **PREMISES:** The County authorizes Green Cove Springs, subject to the terms and conditions of this Agreement, to use the CCGR for firearms training, practice, and testing of the Green Cove Springs Police Department's officers.

2. **AUTHORIZED REPRESENTATIVES:** For purposes of this Agreement, the County Representatives shall be the County Manager or the CCGR Manager, and Green Cove Springs' Representatives shall be the City Manager or Chief of Police.

3. **TERM:** This Agreement shall commence on the date first noted above, and shall continue until terminated by either party.

4. **USE OF THE CCGR BY GREEN COVE SPRINGS:**

a. Throughout the term of this Agreement, Green Cove Springs shall have access to the CCGR Monday through Wednesday for use by the Green Cove Springs Police Department's officers to the exclusion of the general public, subject to approval by the Clay County Sheriff, which approval shall not be unreasonably withheld.

b. At any and all times that the Green Cove Springs Police Department's officers intend to use the CCGR, written notification shall be provided to the Gun Range Manager or designee of the intended use of the CCGR.

c. At any and all times that the Green Cove Springs Police Department's officers have access to the CCGR, Green Cove Springs shall not allow access to, or use of, the CCGR by non-certified law enforcement officers, by personnel of other law enforcement agencies that have not entered into agreements with the County for use of the CCGR, or any other unauthorized invitees.

d. Green Cove Springs' use of any space at the CCGR is conditioned upon:

1) Green Cove Springs, at its sole cost and expense, providing a certified safety officer on site during the use of the facilities by the Green Cove Springs Police Department's officers, unless such safety officer is being provided at the time of use by the Clay County Sheriff;

2) The execution of a General Waiver by all of the Green Cove Springs Police Department's officers utilizing the CCGR;

3) The adherence to all of the Green Cove Springs Police Department's internal policies and procedures for firearm safety, best practices, and all FDLE requirements.

e. Green Cove Springs shall immediately notify the County's Risk Management Department and an authorized representative of the CCGR upon the discovery of any defects or issues related to the CCGR or any incidents occurring at the CCGR.

f. No usage fees will be due for use of the CCGR by the Green Cove Springs Police Department Officers on the designated days set forth herein.

g. The County reserves the right to close, in whole or in part, the CCGR upon written notification to Green Cove Springs for such period or periods as may be deemed necessary, due to unsuitable weather or other conditions which are considered by the County as unfavorable for the use of the CCGR.

5. **CONDUCT WHILE ON CCGR:** Green Cove Springs acknowledges that the Green Cove Springs Police Department's officers, employees, and agents, will conduct themselves in an appropriate manner while at the CCGR. It is a breach of this Agreement for the Green Cove Springs Police Department's officers, employees, and agents, to act in a manner which is inconsistent with good conduct or decorum or to behave in any manner that will disrupt the environment of the CCGR or constitute any level of threat to the safety, health and well-being of any person(s) present. Green Cove Springs agrees to immediately remove any officer, employee, or agent if directed to do so by an authorized representative of the CCGR, for any alleged violations of conduct prohibited herein.

6. **INSURANCE:**

a. Providing and maintaining adequate insurance coverage is a material obligation of Green Cove Springs.

b. Green Cove Springs shall obtain and maintain in force, at Green Cove Springs' expense, during the entire term of this Agreement, public liability insurance with a minimum coverage of one million dollars (\$1,000,000) for injuries to one person and two million dollars (\$2,000,000) of aggregate coverage and one million dollars (\$1,000,000) for damage to property.

c. The coverage shall contain no special limitation on the scope of protection afforded to the County, its employees, agents, officials, boards, and commissions. The certificate of insurance shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate of insurance will show a retroactive date, which should be the same date of the initial Agreement or prior. The Agreement number and/or other identifying reference must be listed on the certificate of insurance.

d. The Certificate Holder on the certificate of insurance should read as follows: "Clay County Board of County Commissioners, P.O. Box 1366, Green Cove Springs, FL 32043" or as otherwise designated by the County's Purchasing Department and shall name as Additional Insureds the following: Clay County, a political subdivision of the State of Florida, and the Board of County Commissioners, Clay County, Florida, its employees, agents, boards and commissions, as their interests may appear.

e. The certificate of insurance shall be provided to the County with a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of Green Cove Springs to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the Certificate Holder. In the event the Agreement term goes beyond the expiration date of

any insurance policy, Green Cove Springs shall provide the County's Purchasing Department with an updated certificate of insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The County reserves the right to suspend the Agreement until this requirement is met. If any required insurance coverage is canceled, terminated, or revoked, Green Cove Springs agrees to immediately suspend its use of the CCGR until replacement insurance is obtained and verified.

f. Prior to commencement of use of the CCGR, Green Cove Springs must deliver a valid certificate of insurance for the required insurance coverage to the County's Purchasing Department.

7. LOSS AND DAMAGE:

a. The County shall not be liable for any damage to property of the Green Cove Springs Police Department's officers, employees, or agents, while located on the CCGR, nor for loss of or damage to any property of the Green Cove Springs Police Department's officers, employees, or agents, by theft or otherwise. If any property of the Green Cove Springs Police Department's officers, employees, or agents is kept or stored at the CCGR, it shall be so kept or stored at the risk of the Green Cove Springs Police Department's officers, employees, or agents, and Green Cove Springs and its Police Department's officers, employees, or agents shall hold the County harmless from and hereby waive any claims arising out of damage to the same.

b. Green Cove Springs shall be liable for the reasonable cost of repair of any damages to the CCGR caused by the Green Cove Springs Police Department's officers, employees, or agents, during use or occupancy of the CCGR during the term of the Agreement, subject to normal wear and tear.

8. INDEMNITY:

a. Green Cove Springs shall promptly defend, indemnify, and hold harmless the County, and its directors, officers, employees, representatives, agents, boards and commissions from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines, orders, and/or judgments, either at law or in equity, including court costs, attorneys' fees, professional fees, or other expenses, that may hereafter at any time be made or brought by anyone on account of personal or bodily injury, damage to or loss of property, loss of monies, death, or other loss, arising out of, by reason of, or in any manner connected with or related to the use of the CCGR by the Green Cove Springs Police Department's officers, employees, and agents. To the extent any indemnification by Green Cove Springs may be construed under this Agreement, any such indemnification shall be subject to and within the limitations set forth in Section 768.28, Florida Statutes, and to any other limitations, restrictions and prohibitions that may be provided by law, and shall not be deemed to operate as a waiver of, or modification to, Green Cove Springs' sovereign immunity protections.

b. The County does not agree to and shall not indemnify Green Cove Springs or any other person or entity, for any purpose whatsoever. To the extent any indemnification by the County may be construed under this Agreement, any such indemnification shall be subject to and within the limitations set forth in Section 768.28, Florida Statutes, and to any other limitations, restrictions and prohibitions that may be provided by law, and shall not be deemed to operate as a waiver of, or modification to, the County's sovereign immunity protections.

c. The provisions in this Section shall survive the termination or expiration of this Agreement.

9. **TERMINATION:** The County may terminate this Agreement, in whole or in part, upon written notice of termination by the County Manager to Green Cove Springs at least 120 days before the termination, setting forth the effective date of termination. If either party wishes to terminate the agreement, in whole or in part, for their mutual convenience, the parties may agree to such through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper close-out of this Agreement.

10. **AMENDMENT:** The Agreement may only be modified or amended upon mutual written agreement of the County and Green Cove Springs. No oral agreements or representation shall be valid or binding upon either Party.

11. **COMPLIANCE WITH LAWS:** The Green Cove Springs Police Department's officers, employees, and agents shall comply with all applicable Federal, State, County, and Municipal laws, ordinances, and regulations pertaining to the interior and exterior use and occupancy of the CCGR.

12. **NO ASSIGNMENT:** Neither party may assign, transfer or otherwise vest in any other person or agency any of its rights or obligations under this Agreement without the prior express written consent of the other party to such assignment, delegation or transfer which consent shall not be unreasonably withheld. Green Cove Springs may not enter into agreements for the provision of services with respect to fulfillment of Green Cove Springs' duties and obligations hereunder without the express written consent of the County which consent shall not be unreasonably withheld.

13. **NO THIRD-PARTY BENEFICIARIES:** Any other provisions of this Agreement to the contrary notwithstanding, no third-party beneficiaries are intended or contemplated under this Agreement, and no third-party shall be deemed to have rights or remedies arising under this Agreement or such documents against either party to this Agreement.

14. **TAXATION OF COSTS AND EXPENSES:** In the event either party shall retain an attorney to litigate on its behalf against the other Party regarding the enforcement or interpretation of this Agreement or regarding the rights, remedies, or obligations of the parties arising under this Agreement, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of those costs, and expenses the taxation of which is provided for by statute, including costs, and expenses incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of

litigation, or incurred in bankruptcy or on appeal. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend either party's liability beyond the limits established in Section 768.28, Florida Statutes.

15. **NOTICES:** Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered or given when: a) actually received or b) signed for or "refused" as indicated on the postal service return receipt. Delivery may be personal delivery or by United States Mail, postage prepaid, certified or registered mail, or by deposit with a nationally recognized express courier, addressed to the parties hereto at the respective addresses set out opposite their names below, or at such other addresses as they may hereafter specify by written notice, delivered in accordance herewith.

To County:

Clay County
Attn: County Manager
477 Houston St.
P.O. Box 1366
Green Cove Springs, Florida 32043

To Green Cove Springs:

City of Green Cove Springs
Attn: City Manager
321 Walnut St.
Green Cove Springs, FL 32043

16. **ENTIRE AGREEMENT:** This Agreement sets forth the entire Agreement between the parties. Any prior conversation or writing is merged herein and extinguished. No subsequent amendment to this Agreement shall be binding upon the County and Green Cove Springs, unless reduced to writing and signed by both parties.

17. **HEADINGS:** The headings contained in this Agreement are for references purposes only and are not intended to define, limit, construe or describe the scope or intent of any paragraph, nor in any way affect this Agreement.

18. **SEVERABILITY:** If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein.

19. **PUBLIC RECORDS:** The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. The parties shall comply with all requirements of Chapter 119, Florida Statutes, to the extent applicable to the records and documents associated with this Agreement that are in its possession or under its control. A request to inspect or copy public records relating to the Agreement must be made directly to the County.

20. **RECORDS RETENTION AND AUDIT:** The parties shall retain all records relating to this Agreement for a period of at least five (5) years after the Agreement terminates. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. Each party to this Agreement, upon written reasonable notice, shall have the right to audit and

inspect any records of the other party relating to this Agreement to ensure compliance with the terms of this Agreement.

IF GREEN COVE SPRINGS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO GREEN COVE SPRINGS' DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 529-3604, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.

21. **COUNTERPARTS:** The Agreement may be executed in one or more counterparts and by the separate parties in separate counterparts, each of which shall be deemed to constitute an original and all of which shall be deemed to constitute the one and the same agreement.

22. **AUTHORITY:** The parties to this Agreement agree that electronic signatures may be utilized by either or both parties and that the digital signatures of the party or parties set forth below are intended to authenticate this Agreement and have the same force and effect as manual written signatures. Each person signing on behalf of the parties to the Agreement represents and warrants that he/she has full authority to execute this Agreement on behalf of such party and that the Agreement will constitute a legal and binding obligation of such party.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

**CLAY COUNTY, A POLITICAL SUBDIVISION
OF THE STATE OF FLORIDA**

Betsy Condon, Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

CITY OF GREEN COVE SPRINGS, FLORIDA

_____, Mayor

ATTEST:

Erin West
City Clerk

APPROVED AS TO FORM:

By: _____
L.J. Arnold III
City Attorney

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