

1. **Requested Motion:** Motion to approve the form of Agreement between Friends of the Mound House and Daniel Hughes.

**Meeting Date:** 3/18/13

**Why the action is necessary:** An agreement concerning the proposed donation by Daniel Hughes to Friends of the Mound House is preferred so that there is no misunderstanding as to how those donated funds are to be used.

**What the action accomplishes:** Approves the form of the agreement between Daniel Hughes and Friends of the Mound House concerning funds donated by Mr. Hughes to be used to furnish the Period Room at the Mound House.

2. **Agenda:**

Consent  
 Administrative

3. **Requirement/Purpose:**

Resolution  
 Ordinance  
 Other

4. **Submitter of Information:**

Council  
 Town Staff  
 Town Attorney

5. **Background:** See attached letter from Donor, Daniel Hughes.

6. **Alternative Action:** Decline to approve the form of agreement.

7. **Management Recommendations:** Approve the form of agreement.

8. **Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

9. **Council Action:**

Approved     Denied     Deferred     Other

## DONATION AGREEMENT

This **DONATION AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between Daniel Hughes, an individual, whose mailing address is \_\_\_\_\_, hereinafter "DONOR" and Friends of the Mound House, a Florida not-for-profit corporation, whose mailing address is \_\_\_\_\_, hereinafter "DONEE."

### **RECITALS:**

WHEREAS, Donee is a 501(c)(3) corporation and the contribution by Donor is intended to constitute a "charitable contribution" within the meaning of Section 170(c)(1) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, Donor intends to donate funds to Donee for the purpose of providing furnishings for the Period Room at the William H. Case (Mound) House so that said Period Room will appear as it did when it was originally furnished, circa 1909, said cost being estimated to be between ten and twelve thousand dollars; and

WHEREAS, Donor intends that the commitment to donate be irrevocable; and

WHEREAS, the parties hereto desire to specify the conditions and terms of the donation in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

#### **1. Donation and Acceptance.**

DONOR agrees to donate to DONEE, and DONEE agrees to receive and accept from the DONOR, a monetary donation of all funds necessary to furnish the Period Room at the William H. Case (Mound) House in order to replicate, as nearly as possible, the appearance of that room in its original condition, circa 1909. This donation shall include the cost of any consultant hired by the Town of Fort Myers Beach to assist it in furnishing the room.

#### **2. Use of Donated Funds.**

Upon receipt of the donated funds from DONOR, DONEE agrees to remit the funds, as needed, to the Town of Fort Myers Beach, Florida ("Town"), to reimburse the

Town for any and all expenses incurred by the Town in furnishing the Period Room at the William H. Case (Mound) House.

### 3. **Donation Conditions.**

A condition of this donation is that a small, permanent plaque shall be placed in the room reciting that the furnishings have been contributed by the DONOR in loving memory of his late wife, Ann Richards Hughes. Said plaque will be provided by DONOR at his sole expense and the wording, design and location shall be mutually agreed to by DONOR and the Town's consultant.

### 4. **Donative Intent.**

The funds being donated by DONOR pursuant to this agreement are intended as a charitable gift.

### 5. **Miscellaneous.**

(a) **Relationship of the Parties.** Notwithstanding any provision to the contrary in this Donation Agreement, the parties agree that their relationship with respect to the gift contemplated herein is one of donor and donee only, and no provision of this Donation Agreement shall be construed to create any other type of status or relationship between the parties with respect to such donation.

(b) **Severability.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Donation Agreement, but this Donation Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

(c) **Entire Agreement.** This Donation Agreement constitutes the complete understanding and agreement of the parties with respect to the donation contemplated by this Agreement. No oral statements, representations or agreements other than this Donation Agreement shall have any force or effect and DONEE and DONOR agree that they will not rely on any representations or agreements other than those contained in this Donation Agreement.

(d) **Applicable Law and Binding Effect.** This Donation Agreement shall be construed and interpreted in accordance with the laws of the State of Florida and venue for any action brought to enforce the provisions of this Agreement shall be in Lee County, Florida. This Donation Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals the date first above written.

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**DONEE:**

**FRIENDS OF THE MOUND HOUSE**  
a Florida Not-For-Profit Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
**DANIEL HUGHES**  
**DONOR**

**DANIEL HUGHES**

270 Randy Lane

Fort Myers Beach, FL 33931

Phone: (239) 765-0198 | Fax: (239) 765-0198 | danatfmbeach@gmail.com

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TOWN ATTORNEY  
TOWN MANAGER  
TOWN CLERK

Town Council  
Ft. Myers Beach, FL

TOWN OF  
FORT MYERS BEACH

FEB 21 2013

RECEIVED BY

Re: Mound House Period Room

Dear Mayor, Vice-Mayor and Council Members:

This letter is to confirm the gift which I proposed at the last meeting of the Board of Directors of Friends of the Mound House, Inc. (Friends), to wit: I shall give to the Friends all funds needed to furnish the Period Room as it appeared in its original condition, circa 1909, including the cost of any consultant in connection therewith. It is understood that the Friends shall remit funds to the Town as needed, to reimburse the Town for any and all expenses it incurs in furnishing this room. I am advised that the cost is estimated to be ten to twelve thousand dollars.

This commitment is irrevocable. A condition, however, is that a small, permanent plaque be placed in the room reciting that the furnishings have been contributed by me in loving memory of my late wife, Ann Richards Hughes. Said plaque will be provided at my expense and shall be in wording, design and location mutually acceptable to me and the Town's Consultant.

This gift reflects my continuing dedication to the enhancement and development of the Mound House property as a cultural, educational and historical site to be used and enjoyed by the general public (having been involved in its acquisition when serving as our Town Mayor and subsequently as a member of CELCAB and director and treasurer of the Friends). This gift also implements my desire to create a lasting memorial for which Ann would be proud and grateful.

If you have any questions, feel free to call me at 765-0198.

Sincerely,



Daniel Hughes

Cc: Town Manager and Finance Director  
Members of CELCAB  
Directors of Friends  
Dana Hughes Southard, Michael Hughes, Phillip Hughes

