

LEASE

THIS LEASE is made this ____ day of _____, 2009 between **West Florida Historic Preservation, Inc.**, a non-profit corporation (“Lessor” or “WFHPI”), whose address is 120 East Church Street, Pensacola, Florida 32502, and **The University of West Florida, for and on behalf of the University of West Florida Board of Trustees**, a public body corporate (“Lessee” or “UWF”), whose address is 11000 University Parkway, Pensacola, FL 32514.

The parties agree as follows:

1. PREMISES.

Lessor leases to Lessee the following described property (the “Premises”):

Parcel 1

West 42 3/10’ of North 60 10/100’ of East 112 83/100’ of Lot E, lettered lots Old City Tract, OR 4113, Page 1113 CA 74; Escambia County, Florida.

Parcel ID# 00-0S-00-9004-003-005

AND ALSO

Parcel 2

West 40’ of Lots 1 and 2, lots between Government and Churchs Streets, Old City Tract, OR 3008, Page 709, 171 Windham CA 74; Escambia County, Florida.

Parcel ID# 00-0S-00-9005-001-001

2. TERM. The Lease is for an initial fifty-year term (“Initial Term”) beginning on the ____ day of _____, 2009 (“Rent Commencement Date”). Each lease year consists of a 12-month period beginning on the Rent Commencement Date and successive anniversaries of that date.

3. RENT. Lessee agrees to pay Lessor for and during the Initial Term the sum of \$1.00 per year as rent payable annually in advance, beginning on the ____ day

7447-lease of PHS buildings to UWF

of _____, 2009. Rent payments will be paid to Lessor at P. O. Box 12866, Pensacola, FL 32591, or at 120 East Church Street, Pensacola, FL 32502.

4. USE OF PREMISES. The Premises will be used for the promotion of historic preservation and museum studies initiatives of UWF, including educational and research purposes related to the Pensacola Historical Society, a Division of WFHPI. It is intended that the Premises will be operated as a part of UWF's Historic District pursuant to the provisions of the Operating Agreement between UWF and WFHPI dated July 1, 2001, as amended.

5. ASSIGNMENT AND SUBLETTING. Lessee shall not assign the Lease in whole or in part or sublet all or any part of the Premises without first obtaining Lessor's written consent, which consent will not be unreasonably withheld by Lessor.

6. COMPLIANCE WITH REGULATIONS. Lessee must comply with all governmental regulations applicable to the use and occupancy of the Premises by Lessee.

7. ALTERATION OF PREMISES. All additions and renovations to the building shall become a portion of the real property and remain upon the Premises as a part thereof upon termination of this Lease. In any event, the building should be returned in as good a condition as present, reasonable wear and tear, and acts of God or war excepted.

8. INSURANCE. During the term of the Lease, Lessor shall obtain and maintain in good standing, at Lessor's expense liability and casualty coverage through the UWF/State self-insured program.

9. REPAIRS AND MAINTENANCE. Lessor shall, at Lessor's expense, perform all maintenance and repair required to keep the heating and air-conditioning equipment serving the leased premises, exterior signs, electrical fixtures and equipment, plumbing, plumbing equipment fixtures, and the interior of the leased Premises in good condition during the term of the Lease. Lessor shall maintain, repair and replace the roof, structure, and load bearing walls in the event of damage.

10. IMPROVEMENTS.

10.1 Lessee shall make no alterations in or additions or improvements on the premises without, in each case, obtaining the written consent of Lessor. Before improvements are made to the premises by Lessee, Lessee shall notify Lessor in writing, requesting approval, which permission shall not be unreasonably withheld, and which response shall be within 30 days of written notification.

10.2 If any alterations, additions, or improvements in or to the premises are made necessary by reason of the use and occupancy of the premises by Lessee, Lessee agrees that it will make all alterations, additions, and improvements in or to the premises at its own expense and in compliance with all building codes, ordinances, and governmental regulations pertaining to the work, use, or occupancy.

11. SUBORDINATION. The Lease and all rights of the Lessee under it are subject to and subordinate to the rights of any mortgage holder now or hereafter having a security interest in the leased premises or any other encumbrances Lessor desires to place on the property.

12. LESSEE'S COVENANTS. Lessee further covenants and agrees as follows:

12.1 To pay the rent when it comes due; to use the premises in a careful and proper manner for the purposes set forth in this Lease; to commit or permit no waste or damages to the premises; to conduct or permit no business or act that is a nuisance or may be in violation of any federal, state, or local law or ordinance; to surrender the premises on expiration or termination of the Lease in clean condition and good repair, normal wear and tear excepted, provided, however, that all alterations, additions, and improvements permanently attached and made by Lessee, its successors, sublessees, and assigns shall become and remain the property of Lessor on the termination of Lessee's occupancy of the premises.

12.2 To permit Lessor to enter, inspect, and make such repairs to the leased property as Lessor reasonably may desire, at all reasonable times, and to permit Lessor to put on the leased premises a notice that Lessee may not remove stating the premises are for rent one month preceding the expiration of the Lease.

13. LESSOR'S COVENANTS. Lessor covenants and agrees it will warrant and defend Lessee in the enjoyment and peaceful possession of the premises during the term of the Lease.

14. UTILITIES, JANITORIAL, AND RELATED SERVICES. Lessor will pay all costs of pest control, waste collection, fuel, electricity, telecommunications, telephone, water, sewer, and all other utilities used on the premises.

15. CONDEMNATION.

15.1 Definition of Taking. For purposes of this article, any of the following three events shall be deemed a "Taking": (a) if any part of the Premises is taken or condemned through the exercise of the power of eminent domain by any governmental or private board, body, or agency having the right to exercise such power, (b) if any part of the Premises is conveyed to any condemning authority under threat of condemnation before or after proceedings have been commenced to acquire the property by the condemning authority, or (c) if a "Taking" is judicially declared in any proceeding in which Landlord is a party.

15.2 Total Taking. In the event of a Taking of all of the Premises, this Lease shall terminate on the date on which possession of the Premises is delivered to the condemning authority (the "Condemnation Date") and rent shall be apportioned and paid to the Condemnation Date.

15.3 Partial Taking. If a Taking shall affect less than all or a material portion of the Premises which will render the Premises unsuitable for restoration for continued use and occupancy in Tenant's business, then Tenant may, not later than 90 days after such occurrence, deliver to Landlord (a) notice of Tenant's intention to terminate this Lease on a business day specified in such notice (the "Lease Termination Date"), which occurs not less than 30 days after the delivery of such notice; provided, however, if the interest of Tenant under this Lease shall then be encumbered by a Leasehold Mortgage, Leasehold Mortgagee shall have consented in writing to the giving of such notice, and (b) a certificate of Tenant describing the event giving rise to such termination. This Lease shall terminate on the Lease Termination Date, except with respect to obligations and liabilities of Tenant under this Lease, actual or contingent, which have arisen on or before the Lease Termination Date, on payment of all additional rent and other sums then due and payable under this Lease to and including the Lease Termination Date.

15.4 Allocation of Award. Landlord and Tenant agree that any award or compensation on account of a Taking will be allocated as follows:

15.4.1 Tenant receives that portion of the award or compensation allocable to its leasehold estate and all awards for any improvements located on the Premises, subject to Landlord's right to receive the reversionary estate interest in such improvements; and

15.4.2 Landlord shall be entitled to receive that portion of the award or compensation allocable to its reversionary estate, as encumbered by this Lease.

15.5 Condemnation Proceedings. Both Landlord and Tenant may appear in any such proceeding or action, to negotiate, prosecute, and adjust any claim for any award or compensation on account of any Taking as it relates to their respective interest in the Premises. All amounts paid in connection with any Taking of the Premises shall be applied pursuant to this article, and all such amounts are defined as the "Award." Landlord shall have no interest in any Award or any portion of it made in respect of Tenant's leasehold estate or the improvements, except as to its reversionary interest in them, all of which shall belong to and be paid to Tenant. However, any claim or interest by Leasehold Mortgagee shall be deducted from Tenant's Award and shall not reduce any compensation granted to Landlord, and Tenant shall have no interest in any Award or any portion of it made in respect of the Landlord's reversionary estate.

15.6 Continuation. If a Taking of the Premises or any part of it shall occur, but Tenant does not give notice of its intention to terminate this Lease as provided in this article, then this Lease shall continue in full force and effect. Any Award payable for such Taking shall be allocated between Landlord and Tenant in accordance with this article and Tenant shall promptly repair and restore the Premises to the same condition (as nearly as practicable) as existed immediately before the Taking (assuming for this purpose that the Premises were in compliance with the terms of this Lease). In the event of any temporary Taking, this Lease shall remain in full effect and Tenant shall be entitled to receive the Award allocable to such temporary Taking; except that such portion of the Award allocable to the period after the expiration or termination of the Lease Term shall be paid to Landlord.

16. ESTOPPEL CERTIFICATES. From time to time, Landlord or Tenant, on not less than 10 Business Days' prior notice from the requesting party or its mortgagee, shall execute and deliver an estoppel certificate in a form generally consistent with the requirements of institutional lenders and certified to the requesting party and any mortgagee or prospective mortgagee or purchaser of the interest of the requesting party.

17. WAIVER. The waiver of any breach of this Lease by either party shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this Lease.

18. NOT CONSENT TO SUE. The provisions, terms, or conditions of this Lease shall not be construed as consent for the State of Florida to be sued because of said leasehold, and shall not be construed as a waiver of sovereign immunity.

19. AVAILABILITY OF FUNDS. The obligations of Lessee under this Lease are subject to the availability of funds lawfully appropriated annually for its purposes by the Legislature of the State of Florida.

20. RADON GAS. The following notification is provided under section 404.056(5), Florida Statutes: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

21. ADDRESS FOR PAYMENTS AND NOTICES. Notices to Lessee and Lessor may be mailed to the addresses above, or such other addresses as the Lessor and Lessee may provide in writing to the other. All notices to either party must be sent by hand delivery or certified mail, return receipt requested.

22. TERMINATION. Either party may cancel this Lease as to either or both properties constituting the Premises by providing not less than sixty (60) days written notice to the other party.

23. FLORIDA LAW. The Lease will be governed by the laws of the State of Florida, as to both interpretations and performance.

24. PARTIES BOUND. The terms of the Lease are binding on the respective successor, representatives, and assigns of the parties.

25. AMENDMENT. This Lease may not be amended, modified, altered, or changed in any respect, except by further agreement in writing duly executed on behalf of Lessor and Lessee.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed the Lease the date first above written.

WITNESSES:

Print: _____

Print: _____

LESSOR:

West Florida Historic Preservation, Inc.

By J. Earle Bowden
Its President

WITNESSES:

Print: _____

Print: _____

LESSEE:

The University of West Florida

By Judith A. Bense
Its President

Approved as to form and legality:

Patricia D. Lott, General Counsel
Office of General Counsel

DRAFT 4/23/09