

RESOLUTION NO. 2007- 10

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A CERTAIN PURCHASE AND SALE AGREEMENT FOR PROPERTY NEEDED FOR THE WEST KING STREET IMPROVEMENT PROJECT.

RECITALS

WHEREAS, the Florida Memorial University Foundation, as owner of property located along Holmes Boulevard and West King Street, has presented to the County a Purchase and Sale Agreement, including an Addendum and Exhibits (A) License Agreement and (B) Relocation License Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, the owner has agreed to sell three strips of land along Holmes Boulevard for a total of \$413,250.00 as supported by the Complete Appraisal Summary Report completed by Michael Roy, MAI, SRA, of Lampe, Roy & Associates, Inc., Jacksonville, plus the cost of restoring and/or moving the A. L. Lewis Arch, for required Right-of-Way as part of the improvements to the West King Street corridor, a Capital Improvement Project that was funded as part of the Transportation Trust Fund Budget; and

WHEREAS, it is in the best interest of the County to acquire this property for the safety improvements needed to the West King Street corridor.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.
2. The Board of County Commissioners hereby approves the terms of the Purchase and Sale Agreement and authorizes the County Administrator to take necessary action to facilitate and close the purchase in accordance with the terms of said agreement.
3. The Clerk is instructed to file the original Purchase and Sale Agreement in the Official Records of St. Johns County, Florida once it is fully executed by Florida Memorial University.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 14th day of January, 2007.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

BY: Ben Rich
Ben Rich, Chairman

ATTEST: Cheryl Strickland, Clerk

By: Patricia Ali Grasse
Deputy Clerk

RENDITION DATE 1-11-07

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2007, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is, 4020 Lewis Speedway, St. Augustine, Florida 32084 ("Buyer") and **FLORIDA MEMORIAL COLLEGE FOUNDATION, INC., A Florida not-for-profit corporation, now known as FLORIDA MEMORIAL UNIVERSITY FOUNDATION, INC.**, ("Sellers"), whose address is 15800 N.W. 42nd Avenue, Miami, Florida 33054.

WITNESSETH:

WHEREAS, the County is desirous of purchasing a portion of the property owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple title to approximately 6 acres of property located on Holmes Boulevard, as shown on Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property"); and

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is **Four Hundred Thirteen Thousand Two Hundred Fifty Dollars and 00/100 (\$413,250.00)**, subject to the prorations hereinafter provided. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(i) Deposit to be held in Escrow by Escrow Agent (hereinafter defined)	Due within thirty (30) days of Commission Approval (hereinafter defined)	\$ 41,325.00
(ii) Cash to Close	Closing Day	\$371,925.00
TOTAL PURCHASE PRICE		\$413,250.00

Payment of the Purchase Price shall be in cash or other immediately available funds.

2. Title Evidence.

(a) Buyer agrees, at his/her sole option and expense, to take all reasonable action to obtain, within 45 days from the effective date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in the State of Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed, an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's title to the property subject only to the following (the "Permitted Encumbrances"):

(i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;

(ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;

(iii) restrictions and matters appearing on the plat of the Property; and

(b) Buyer shall notify Seller in writing (“Title Notice”) within 10 days after Buyer’s receipt of the Commitment or a denial thereof, if it discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment discloses any defect or denial and such is timely noted in a Title Notice, Seller, at Seller’s sole option and expense, shall have 90 days from the date it receives the Title Notice within which to cure such defect or denial (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 90-day period, Seller has not cured title defects or denial, then in such event, Buyer’s remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement and receiving a return of the Deposit.

3. Identity and Obligation of Escrow Agent.

(a) **FIRST AMERICAN TITLE INSURANCE COMPANY**, 1750 Tree Boulevard, Suite C, St. Augustine, Florida 32084, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance policy.

(b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all the parties having an interest in such dispute directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery of the Deposit, monies or documents which Escrow Agent holds, in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder.

In the event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

4. Closing. Unless extended by the terms of Section 2, or other provisions hereof, the closing of the sale of the Property (“Closing”) shall take place at the offices of the Escrow Agent, **FIRST AMERICAN TITLE INSURANCE COMPANY**, 1750 Tree Boulevard, Suite C, St. Augustine, Florida 32084, on or before One Hundred Sixty (160) days from the date of this Agreement (“Closing Date”), TIME BEING OF THE ESSENCE.

5. Prorations. Any real property taxes shall be prorated on the basis of the 2007 taxes at the highest allowable discount.

6. Seller’s Representations. Seller represents to Buyer that he owns fee simple title to the Property and has full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

7. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a general warranty deed (“Deed”) conveying the fee simple title to the Property, subject only to the Permitted Encumbrances and the matters referred to on the Commitment;

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number “FIRPTA” affidavit to be signed by seller.

(iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the “gap” and to remove the standard printed exceptions for mechanics’ lien and parties in possession other than Occupancy Tenants (except to the extent the same constitute Permitted Encumbrances).

(b) At the Closing, Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. Buyer shall execute and deliver to Seller such consents and authorizations as Seller may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Seller and Buyer shall execute such further documents and agreements as are reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

8. Closing Expenses. Buyer shall pay the cost of the owner's title policy issued pursuant to the Commitment, the cost of recording the deed, all of the expenses in connection with recording fees. Each party shall bear the expense of its own legal counsel.

9. Survey and Legal Description. Between this date and Closing, Buyer shall have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 2. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.

10. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for one hundred twenty (120) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests, or assessments, including but not limited to Phase 1 Environmental Study, Real Estate Appraisal, and Engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer's sole cost and risk. Seller agrees to provide Buyer any documents, tests, easements, wetland assessments, environmental assessments, surveys, etc., within their possession that would help Buyer make a suitability decision regarding the property. Buyer agrees to provide Seller with copies of all reports conducted on the Property. If Buyer determines that the Property is unsuitable for any reason, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on, or prior to, the Inspection Termination Date. Such notice of termination must be given on, or before, the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

11. Default. (a) Default by Seller. If Seller defaults by performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than the Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.

12. Survival. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

14. Modification Must be in Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

15. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

16. Assignability. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

17. Time. Time is of the essence of all provisions of this Agreement.

18. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

19. Notices. Any notice hereunder must be in writing and delivered personally or by United States Mail, Registered or Certified, Return Receipt Requested; United States Express Mail; or Federal Express or equivalent courier service, and shall be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Seller: **Florida Memorial University Foundation, Inc.**
AKA Florida Memorial College Foundation, Inc.
15800 N.W. 42nd Avenue
Miami, Florida 33054

Buyer: **St. Johns County, Florida, a political subdivision**
Of the State of Florida
4020 Lewis Speedway
St. Augustine, Florida 32084

Escrow Agent: **First American Title Insurance Company**
1750 Tree Boulevard, Suite C
St. Augustine, Florida 32084

20. The A.L. Lewis Arch. This Agreement is subject to agreement by both parties as to the renovation and relocation of the A.L. Lewis Arch, as set forth in the Relocation License Agreement in Exhibit "B" attached hereto and made a part hereof.

21. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written, which have not been incorporated herein.

22. Applicability. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

23. Board of County Commission Approval. This Agreement is subject to the adoption of a resolution by the St. Johns County Commissioners authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

24. Effective Date: The effective date of this Agreement shall be the first date upon which this Agreement or its valid counterparties are properly executed by all named parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement or its counterparties.

WITNESSES:

SELLERS:

Florida Memorial College Foundation, Inc

Signature

Mary A. O'Banner, Ph.D. Date

Print

As its: Registered Agent

Signature

Print

WITNESSES:

BUYER:
ST. JOHNS COUNTY, FLORIDA
A political subdivision of the
State of Florida

Signature

By: _____
Waldemar J. Kropacek Date
County Administrator

Print

Signature

Print

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

PARCEL NUMBER 109A
 LEGAL DESCRIPTION:
 FEE SIMPLE

A parcel of land being a portion of Section 43, William Travers Grant, Township 7 South, Range 29 East, lying Westerly of Holmes Boulevard and Northerly of County Road No. 214 (West King Street) in St. Johns County, Florida, being more particularly described as follows:

BEGIN at the intersection of the existing Westerly right of way line of Holmes Boulevard (a 50.00 foot right of way as now established) with the existing Northerly right of way line of County Road No. 214 (West King Street) (a right of way of varying width); Thence South 65°42'59" West, along said existing Northerly right of way line of said County Road No. 214 (West King Street), a distance of 87.54 feet; Thence departing said existing northerly right of way line, run North 39°38'45" East 45.47 feet; Thence North 21°52'11" West 194.40 feet; Thence North 08°27'29" West 52.13 feet; Thence North 20°43'26" West 295.49 feet; Thence North 21°52'11" West 93.30 feet; Thence North 21°59'59" West 220.30 feet; Thence North 21°52'11" West 2018.52 feet to a point on the Northerly line of said Section 43, William Travers Grant, Township 7 South, Range 29 East; Thence North 68°07'49" East 30.00 feet along the Northerly line of said Section 43 to its intersection with the aforesaid existing Westerly right of way line of Holmes Boulevard; Thence along said westerly right of way line South 21°52'11" East 2890.66 feet to the POINT OF BEGINNING.

Containing 2.114 Acres, More or Less.

PARCEL NUMBER 109B
 LEGAL DESCRIPTION:
 FEE SIMPLE

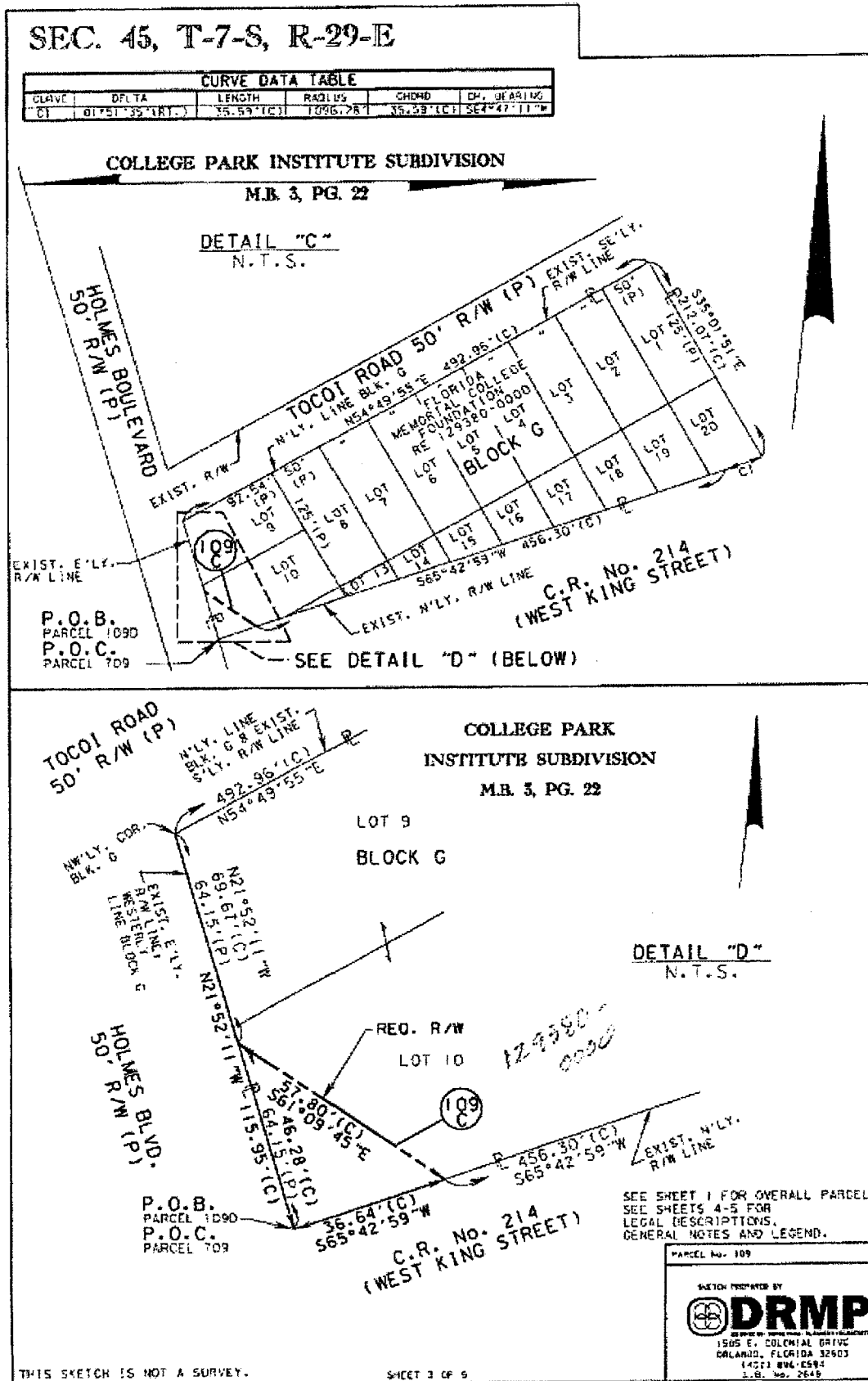
A parcel of land being a portion of Section 43, William Travers Grant, Township 7 South, Range 29 East, lying Westerly of Holmes Boulevard, Southerly of County Road No. 214 (West King Street) and Northerly of FEC Railroad in St. Johns County, Florida, being more particularly described as follows:

BEGIN at the intersection of the existing Westerly right of way line of Holmes Boulevard (a 50.00 foot right of way as now established) with the existing Southerly right of way line of County Road No. 214 (West King Street) (a right of way of varying width); Thence South 21°52'11" East 1389.39 feet, along said existing Westerly right of way line of Holmes Boulevard to its intersection with the existing Northerly right of way line of FEC Railroad (a 100' right of way); Thence South 50°07'08" West 1857.08 feet along said existing Northerly right of way line of FEC Railroad; Thence North 39°33'58" West 65.00 feet, departing said existing Northerly FEC Railroad right of way line; Thence North 50°07'08" East 1843.10 feet; Thence North 21°29'31" West 511.41 feet; Thence North 21°29'08" West 225.26 feet; Thence North 24°12'26" West 314.64 feet; Thence North 20°54'56" West 239.26 feet; Thence North 58°59'03" West 48.57 feet to a point on the existing Southerly right of way line of said County Road No. 214 (West King Street); Thence North 65°42'59" East 66.39 feet, along said existing Southerly right of way line of County Road No. 214 (West King Street) to the POINT OF BEGINNING.

Containing 3.812 Acres, More or Less.

SEE SHEET 1 FOR OVERALL PARCEL.
 SEE SHEETS 2-3 DETAILS.

PARCEL No. 109
 BEYOND INSURED BY
 **DRMP**
DRMP
 1800 E. COLONIAL DRIVE
 ORLANDO, FLORIDA 32803
 (407) 856-0554
 L.O. No. 21-08



PARCEL NUMBER 109C
 LEGAL DESCRIPTION:
 FEE SIMPLE

A portion of Lots 9 and 10, Block G, College Park Institute Subdivision, according to the plat thereof as recorded in Map Book 3, Page 22, of the Current Public Records of St. Johns County, Florida, lying in Section 45, Township 7 South, Range 29 East, of said St. Johns County, Florida, being more particularly described as follows:

BEGIN at the intersection of the Existing Easterly right of way line of Holmes Boulevard (a 50.00 foot platted right of way) with the Existing Northerly right of way line of County Road No. 214 (West King Street) (a right of way of varying width), said intersection also being on the Westerly line of Block G, College Park Institute Subdivision, according to the plat thereof as recorded in Map Book 3, Page 22, of the Current Public Records of St. Johns County, Florida; Thence North 21°52'11" West 46.28 feet, along said Westerly line of said Block G and along said existing Easterly right of way line of Holmes Boulevard; Thence departing said existing easterly right of way line run South 61°09'45" East 57.80 feet to a point on the aforesaid existing Northerly right of way line of County Road No. 214 (West King Street); Thence South 65°42'59" West, along said existing Northerly right of way line, a distance of 36.64 feet to the POINT OF BEGINNING.

Containing 847 Square Feet, More or Less.


GENERAL NOTES:

1. BEARINGS BASED ON F.D.O.T. R/W MAP OF S.R. 5, SECTION 78010-2522, DATED 6-29-84, AS REFLECTED ON THE BASELINE OF C.R. No. 214 (WEST KING STREET) AS BEING N65°42'58"E BETWEEN STATION 14+00.00 AND P.C. STA. 19+25.51.
2. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.
3. NOT VALID WITHOUT SURVEYOR'S ORIGINAL SIGNATURE AND RAISED SEAL.
4. THIS SKETCH IS NOT A SURVEY.

AVE. * AVENUE	LEGEND:	E = PROPERTY LINE
BLK. * BLOCK		R = RANGE
BLVD. * BOULEVARD		REQ. * REQUIRED
(C) * CALCULATED DATA		R/W * RIGHT OF WAY
CL * CENTERLINE		S = SOUTH
COR. * CORNER		SE'LY. * SOUTHEASTERLY
C.R. * COUNTY ROAD		SW'LY. * SOUTHWESTERLY
E * EAST		S.R. * STATE ROAD
E'LY. * EASTERLY		STA. * STATION
EXIST. * EXISTING		ST. * STREET
F.E.C. * FLORIDA EAST COAST		SEC. * SECTION
' * FOOT/MINUTE		T.C.E. * TEMPORARY CONSTRUCTION EASEMENT
" * INCH/SECOND		T * TOWNSHIP
L.B. * LICENSED BUSINESS		W = WEST
M.B. * MAP BOOK		W'LY. * WESTERLY
N * NORTH		
N'LY. * NORTHERLY		
NW'LY. * NORTHWESTERLY		
No. * NUMBER		
N.T.S. * NOT TO SCALE		
PG. * PAGE		
(P) * PLAT DATA		
P.C. * POINT OF CURVATURE		
P.O.B. * POINT OF BEGINNING		
P.O.C. * POINT OF COMMENCEMENT		

SEE SHEET 1 FOR OVERALL PARCEL.
 SEE SHEETS 2-3 DETAILS.

PARCEL No. 109/708
 SHEET PREPARED BY



DRMP
 SURVEYING & MAPPING SERVICES
 1505 E. COLONIAL DRIVE
 ORLANDO, FLORIDA 32803
 (407) 594-0594
 L.B. No. 2546

Deposit received by _____, (Escrow Agent), which the Escrow Agent agrees to return in accordance with the terms and conditions within the Agreement.

ESCROW AGENT

By: **FIRST AMERICAN TITLE COMPANY**

Name: _____

Title: _____

Date: _____

**ADDENDUM TO PURCHASE AND SALE AGREEMENT BETWEEN
FLORIDA MEMORIAL COLLEGE FOUNDATION, INC., NOW KNOWN AS
FLORIDA MEMORIAL UNIVERSITY FOUNDATION, INC., AS SELLER,
AND ST. JOHNS COUNTY, FLORIDA, AS BUYER**

THIS ADDENDUM shall be construed as part of that certain Purchase and Sale Agreement between the parties for the sale and purchase of real property executed by the parties of even date herewith (the "Agreement").

1. Addendum Controls. In the event of any conflict between this Addendum and the Agreement, it is agreed that this Addendum shall control.

2. This Agreement. All references herein to "this Agreement" shall include this Addendum to the Agreement.

3. The Property. The Agreement pertains to the sale and purchase of the Property, which is comprised of three parcels of real property situated in St. Johns County, Florida, specifically, Parcel 109A, Parcel 109B, and Parcel 109C (the "Parcels"), all as more particularly described in Exhibit "A" attached and made a part of the Agreement. The Buyer intends to purchase the Property for the purpose of roadway improvements and expansion.

4. Purchase Price and Deposit. The Purchase Price for the entire Property shall be \$413,250.00, as stated in the Agreement. The Purchase Price for each Parcel shall be allocated as follows: Parcel 109A shall be \$ 127,000 ; Parcel 109B shall be 282,000 ; and Parcel 109C shall be \$ 4,250 .

5. Title Evidence, Survey and Costs.

(a) Buyer, at its cost and expense, shall obtain and deliver to Seller a Survey and title insurance commitment (the "Commitment") issued by a title company authorized to do business in the State of Florida (the "Title Company") agreeing to issue to Buyer, upon recording of the Deed, an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's title to the Property subject to the Permitted Encumbrances, as defined herein. The sale of the Property shall be subject to the following Permitted Encumbrances:

1. The lien of all ad valorem real estate taxes and assessments for the tax year in which Closing occurs, subject to proration as herein provided, and subsequent years;

2. All laws, ordinances, and governmental regulations, including, but not limited to, all applicable building, zoning, land use and environmental ordinances and regulations;

3. All restrictions, reservations, easements, covenants, agreements, limitations and other matters appearing of public record.
4. All matters which would be disclosed by an accurate survey of the Property;
5. All matters created by, through or under Buyer;
6. Any and all tenants, lessees or parties in possession of the Property, including rights of tenants or lessees under unrecorded leases, including the lease encumbering Parcel 109C, as set forth in Section 11 hereinbelow.
7. All easements or unrecorded easements on the Property.

(b) Buyer shall within 45 days of the Effective Date deliver to Seller a copy of the Survey, Commitment and written notice of any title defects, other than the Permitted Encumbrances, which render title unmarketable (the "Title Notice"). Any such defects appearing in the Survey or Commitment and not timely provided to Seller in the Title Notice shall be deemed to have been waived by Buyer and considered Permitted Encumbrances. In the event that Buyer shall so object to the Survey or Commitment, Seller shall have the right (in Seller's sole discretion) within ninety days (90) days after receipt of the Title Notice to cure Buyer's objections, it being understood that Seller shall be under no obligation to cure Buyer's objections. In the event Seller is unwilling or unable to so cure such objections within such ninety (90) day period, Buyer may (i) waive such objections, or (ii) terminate this Agreement by written notice to Seller given no later than the last day of such ninety (90) day period, in which event the Deposit shall be immediately returned to Buyer and neither Buyer nor Seller shall have any further obligations hereunder, except obligations that expressly survive the termination of this Agreement. If the Buyer does not timely provide such notice of cancellation, Buyer shall be deemed to have waived such objections (and to have approved and accepted same) and such objections shall be deemed Permitted Encumbrances.

(c) Buyer shall be responsible for the cost of the Survey, any title searches, the Commitment, lien searches, title insurance premium and the costs of any title updates. Buyer shall be responsible for any all documentary stamp taxes and transfer taxes associated with the purchase and sale of the Property.

6. Prorations. All prorations provided to be made "as of the Closing Date" shall each be made as of 11:59 p.m. local time on the date immediately preceding the Closing Date. In each proration set forth below, the portion thereof allocable to periods beginning with the Closing Date shall be charged to Buyer, as applicable, at Closing or, in the case of allocations made after Closing, upon receipt of such payments or invoice as of the Closing Date. Except as may otherwise be specified herein, the following items shall, as applicable, be prorated between Buyer and Seller or credited to Buyer or Seller.

7. Property Taxes and Assessments.

(a) Seller acknowledges and agrees that the Property is being purchased by an exempt governmental entity and that the Seller must comply with Section 196.295, Florida Statutes, regarding real estate taxes. In connection with the foregoing, prior to Closing, Buyer, at Buyer's cost and expense, shall cause the St. Johns County Property Appraiser and Tax Collector, as applicable, to identify in writing the amount of prorated real estate taxes to be paid to the St. Johns County Tax Collector for the year of Closing in order to comply with Section 196.295, Florida Statutes. Upon Closing, Seller hereby authorizes disbursement to the St. Johns County Tax Collector of the amount necessary to comply with Section 196.295, Florida Statutes. Seller shall retain all right, title and interest in any tax refunds for years prior to the Closing (and Buyer agrees to promptly pay same to Seller upon receipt thereof).

(b) Certified, confirmed and ratified special assessment liens as of Date of Closing (and not as of the date of this Agreement), if any, shall be paid by Seller or Buyer shall receive a credit therefor. Pending liens as of Date of Closing shall be assumed by Buyer; provided, however, that where the improvement for which the special assessment was levied, had been substantially completed as of the date of this Agreement, such pending liens shall be considered as certified, confirmed or ratified and Seller shall, at Closing, be charged an amount equal to the estimated assessment for the improvement. Notwithstanding the foregoing, to the extent any of the foregoing certified, confirmed or ratified liens are payable in installments, Buyer shall take title subject to such lien(s) and shall assume the balance of such installment payments. In such event, the installment payments for the year of Closing shall be prorated as of 12:01 A.M. of the Closing Date. Seller shall retain all right, title and interest in any refunds for any such special assessments for periods prior to Closing (and Purchaser agrees to promptly pay same to Seller upon receipt thereof).

(c) Seller and Purchaser shall make such other adjustments and apportionments as are required or expressly set forth in this Agreement.

8. Closing Procedure and Documents. At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer a special warranty deed (the "Deed") conveying the fee simple title to the Property, subject to the Permitted Encumbrances and all matters shown on the Title Commitment.

9. Final Approval by Board of County Commissioners. Should the final approval of the Board of County Commissioners of St. John County not be obtained by the Buyer on or before the Closing Date, the Seller shall have the right to either terminate this Agreement, in its sole discretion, or grant the Buyer an extension of time to obtain such approval.

10. Declaration of Restrictions. Buyer hereby agrees to execute at Closing, in a form acceptable to Seller in its sole discretion, a declaration of restrictions (the "Declaration") in recordable form, requiring that Buyer place and install any drainage piping and facilities underground, and prohibiting any ditches, along any portion of the Property that abuts any property owned by Seller. The Declaration shall also provide that Seller shall have the right, after Closing, to use portions of Parcel 109A and Parcel 109B of the Property along Holmes Boulevard for

vehicular parking. Seller shall execute at Closing any other documents, including an easement or license, as appropriate, providing for such parking, substantially in the form attached hereto as Exhibit "A" to this Addendum.

11. Condition of Property and Buyer's Right of Inspection; As Is Sale.

(a) Buyer shall have the right for ninety (90) days from the Effective Date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting all surveys, studies and tests, as Buyer deems necessary, as further set forth in Section 5 of the Agreement.

(b) Buyer agrees to purchase the Property in "As Is" condition, without representation or warranty by Seller of any kind. Seller will have no duty to make any alterations or improvements to the Property. Buyer hereby waives any duty or obligation on Seller's part to make any further disclosures or investigations of the condition of the Property. Seller hereby disclaims the accuracy or completeness of any reports, studies, surveys, or other information provided to Buyer concerning the condition of the Property, and Buyer hereby waives any claim against Seller or any third parties for any error or inaccuracy in such information. Buyer acknowledges and agrees that Buyer is relying upon its own investigation of the Property in making the decision to purchase the Property. BUYER AGREES THAT IT IS PURCHASING THE PROPERTY AND ALL IT RIGHTS APPURTENANT THERETO IN ITS PRESENT "AS IS" AND "WITH ALL FAULTS" CONDITION, AND THAT SELLER HAS DISCLAIMED AND HAS NOT MADE AND DOES NOT AND WILL NOT MAKE ANY WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY. FURTHER, BUYER ACKNOWLEDGES THAT SELLER HAS NOT MADE, DOES NOT AND WILL NOT MAKE ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. In entering into this Agreement, Buyer has not been induced by and has not relied upon any representation of Seller, or any other person representing or purporting to represent Seller, which are not expressly set forth in this Addendum, whether or not any such representations, warranties, or statements were made in writing or orally. The provisions of this paragraph shall survive the date of Closing and shall not merge into the Deed.

(c) Historic or Similarly Designated Structures. Seller hereby discloses and informs Buyer of the existence of historic or similarly designated structures on Parcel 109B of the Property, including an entry gate and pillars. Seller makes no representations and warranties to Seller as to the effect of the historic structures on Buyer's intended use of the Property, and whether the structures may be removed or demolished by Buyer. Buyer shall be solely responsible to perform all necessary and appropriate investigations and inquiries as to the historic structures and their effect on the Buyer's intended use and development of the Property.

(d) Long Term Lease on Parcel 109C. Seller hereby discloses and informs Buyer of the existence of a long term lease (initial term of 48 years) with the Board of County Commissioners of St. Johns County for Parcel 109C.

12. Default.

(a) Default By Seller. In the event of a default by Seller under this Agreement, Buyer at its option: (i) shall have the right to receive the return of the Deposit together with any interest earned thereon, whereupon the parties shall be released from all further obligations under this Agreement or, alternatively, (ii) Buyer shall have the right to seek specific performance of the Seller's obligations hereunder. Buyer agrees to give Seller at least fifteen (15) days notice and opportunity to cure any alleged default, or such longer period as is reasonable under the circumstances. The foregoing remedies shall be the sole remedies of Buyer under this Agreement. The parties waive all other claims for compensatory or other damages in the event of a default.

(b) Default by Buyer. In the event of the failure or refusal of the Buyer to close this transaction, Seller shall at its option: (i) have the right to receive Deposit together with any interest earned thereon, as agreed and liquidated damages for Buyer's breach, whereupon the parties shall be released from all further obligations under this Agreement or, alternatively, (ii) Seller shall have the right to seek specific performance of the Buyer's obligations hereunder and enforcement of the Agreement. Seller agrees to give Buyer at least fifteen (15) days notice and opportunity to cure any alleged default, or such longer period as is reasonable under the circumstances. The foregoing remedies shall be the sole remedies of Buyer under this Agreement. The parties waive all other claims for compensatory or other damages in the event of a default.

13. Real Estate Commission. Seller represents and warrants to Buyer and Buyer represents and warrants to Seller that there are no brokers, salespersons or finders involved in this transaction. Seller and Buyer (to the extent permitted by law) agree to indemnify and hold each other harmless from any and all claims for any brokerage fees or similar commissions asserted by brokers, salespersons or finders claiming by, through or under the indemnifying party. The provisions of this Section shall expressly survive the closing or termination of this Agreement.

14. Notices. For purposes of notice pursuant to Section 19 of this Agreement, The names, addresses and contact information of the parties shall be as follows:

Seller: Florida Memorial University Foundation, Inc.
Attention: Dr. Mary A. O'Banner, Ph.D.
15800 N.W. 42nd Avenue
Miami Gardens, Florida 33054
Telephone: 305-626-3612
Facsimile: 305-626-3637

Buyer: St. Johns County, Florida
Attention: Mary Ann Blount
4020 Lewis Speedway
St. Augustine, Florida 32084
Telephone: 904-209-0762
Facsimile: 904-209-0763

With a copy to Seller's attorney:

Weiss Serota Helfman Pastoriza Cole & Boniske, P.A.
Attention: Lillian Arango de la Hoz, Esq.
2665 S. Bayshore Drive, Suite 420
Miami, Florida 33133
Telephone: (305) 854-0800
Facsimile: (305) 854-2323

[THE REST OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Addendum Number One to be executed as of the day and year set forth below.

WITNESSES:

Print Name: _____

Print Name: _____

Print Name: _____

Print Name: _____

SELLER:

FLORIDA MEMORIAL UNIVERSITY
FOUNDATION, INC.,
a Florida not for profit corporation

By: _____

Name: _____

Title: _____

Date: _____

BUYER:

ST. JOHNS COUNTY, FLORIDA,
a Political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "A" TO ADDENDUM TO PURCHASE AND SALE AGREEMENT

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is hereby made and entered into this ___ day of _____, 200__, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 (hereinafter referred to as the "LICENSOR"), and the **FLORIDA MEMORIAL COLLEGE FOUNDATION, INC., A Florida not-for-profit corporation, now known as FLORIDA MEMORIAL UNIVERSITY FOUNDATION, INC.**, whose address is 15800 N.W. 42nd Avenue, Miami Gardens, Florida 33054, and its successors and/or assigns (hereinafter referred to as the "LICENSEE").

WITNESSETH:

WHEREAS, LICENSOR is the fee simple owner of certain real property hereinafter referred to as the "LICENSE AREA", located in the proposed right-of-way area of Holmes Boulevard, St. Johns County, Florida, as more particularly identified in Exhibit "A" attached hereto incorporated by reference and made a part hereof; and

WHEREAS, LICENSOR acquired and purchased the LICENSE AREA from LICENSEE pursuant to that certain Purchase and Sale Agreement dated _____ entered into by the Parties (the "Purchase and Sale Agreement"), in which LICENSEE purchased certain parcels of real property in connection with its right-of-way expansion and improvements to Holmes Boulevard; and

WHEREAS, the Purchase and Sale Agreement provided that, after the Closing, LICENSEE would have the right to utilize the LICENSE AREA along or near Holmes Boulevard for vehicular parking; and

WHEREAS, LICENSEE desires to utilize the LICENSE AREA for the purpose of vehicular parking and all ancillary uses and purposes associated with the LICENSEE'S adjacent property; and

WHEREAS, LICENSOR is desirous of granting the LICENSEE a license to accomplish the aforementioned purpose.

NOW, THEREFORE, for and in consideration of the terms, conditions and mutual covenants hereinafter contained, **LICENSOR** and **LICENSEE**, both attending to be legally bound, hereby agree as follows:

1. **LICENSOR** hereby grants **LICENSEE**, and its successors and/or assigns, and its agents, invitees, employees and guests, the right, privilege and license to utilize the LICENSE AREA for vehicular parking, and all ancillary purposes and uses related thereto, except those where St. Johns County's use for roadway improvements or above ground drainage structures would preclude parking. Parking in the LICENSE AREA shall comply with the St. Johns County Land Development Code and any other applicable County rules, regulations, resolutions or ordinances. The **LICENSEE**, its agents, invitees, employees and guests shall also have the right of ingress and egress to the LICENSE AREA in connection with use of the LICENSE AREA.

2. This License is granted for a primary term of thirty (30) years from the date first written above, with automatic successive renewal terms of ten (10) years each, and shall continue in full force and effect thereafter until terminated for cause by either Party as set forth in section 8.

3. **LICENSOR** retains the right to use the **LICENSE AREA** in any manner not inconsistent with the rights herein granted to **LICENSEE**, provided said use does not unreasonably interfere with or disrupt the rights of the **LICENSEE** granted hereunder. The **LICENSE AREA** shall be maintained clear of obstructions.

4. In consideration for the privilege herein granted, the **LICENSEE** shall not claim any damages from the **LICENSOR** in connection with or on account of any injuries or damages arising in or on the **LICENSE AREA** while being used by the **LICENSEE** and its agents, invitees, employees and guests. The **LICENSEE** shall maintain a program of insurance covering its liabilities and shall be responsible for the negligent and willful acts and omissions of its officers, employees, representatives and agents in connection with use of the **LICENSED AREA** in the event that such acts or omissions result in injury to persons or damage to property. The **LICENSOR** does not warrant or represent that the **LICENSE AREA** is safe or suitable for the purpose for which the **LICENSEE** is permitted to use it, and the **LICENSEE**, assumes all risks in its use.

5. Prior to the initial use of the **LICENSE AREA** by **LICENSEE**, **LICENSEE** shall give **LICENSOR** at least forty-eight (48) hours notification. **LICENSEE** shall have the right to make necessary improvements to or install facilities and equipment within the **LICENSE AREA** for the uses or purposes intended herein, including but not limited to paving or surfacing. **LICENSEE** agrees that any and all work performed in the **LICENSE AREA** and in association with the purpose of the License Agreement shall be accomplished in a good, safe and workmanlike manner and in accordance with applicable Federal, State and local statutes, rules, regulations and ordinances.

6. In the event of termination of this License Agreement as set forth in section 8, **LICENSEE** shall, at **LICENSEE'S** sole cost and expense, remove all equipment, accessories and materials owned by **LICENSEE**, from the **LICENSE AREA** and restore said **LICENSE AREA**, to as good a condition as it was before **LICENSEE** entered upon it and otherwise comply with all applicable Federal, State and local statutes, rules, regulations and ordinances.

7. **LICENSEE** recognizes and understands that piping and drainage structures and other right-of-way associated features may be installed under the **LICENSE AREA** by **LICENSOR**. **LICENSOR** may from time to time need to maintain these features and any improvements made in the **LICENSE AREA**, at the sole risk and responsibility of the **LICENSOR**. **LICENSOR** will use its best efforts to minimize interference or disruption with the **LICENSEE'S** use of the **LICENSED AREA** under this License Agreement.

8. **Termination and Default.** The **LICENSOR** shall provide the **LICENSEE** with written notice of any material failure to perform or comply with the terms and conditions contained herein to be performed by the **LICENSEE**. If the **LICENSEE** fails to commence cure of said default within sixty (60) days of receipt of written notice, or does

not provide the **LICENSOR** with a written response within sixty (60) days after receiving notification, indicating the status of the **LICENSEE'S** resolution of the violations and providing for a schedule to diligently correct all deficiencies, the **LICENSOR** shall have the right to terminate this License Agreement, without penalty, upon thirty (30) days additional written notice to the **LICENSEE**. The **LICENSEE** shall provide the **LICENSOR** with written notice of any material failure to perform or comply with the terms and conditions contained herein to be performed by the **LICENSOR**. If the **LICENSOR** fails to commence cure of said default within sixty (60) days of receipt of written notice, or does not provide the **LICENSEE** with a written response within sixty (60) days after receiving notification, indicating the status of the **LICENSOR'S** resolution of the violations and providing for a schedule to diligently correct all deficiencies, the **LICENSEE** shall have the right to terminate this Agreement, without penalty, upon thirty (30) days additional written notice to the **LICENSOR**.

IN WITNESS WHEREOF, the undersigned parties have executed this License Agreement on the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: _____

Waldemar J. Kropacek,
County Administrator

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

**FLORIDA MEMORIAL UNIVERSITY
FOUNDATION, INC.**

By: _____

Mary A. O'Banner, Ph.D.,

As _____

Witness
As to Dr. Mary A. O'Banner

Witness
As to Dr. Mary A. O'Banner

[NOTARY ACKNOWLEDGEMENTS FOLLOW ON THE NEXT PAGE]

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by **waldemar J. Kropacek, County Administrator on behalf of the Board of Commissioners of St. John's County, and attested by Cheryl Strickland, as Deputy Clerk,** who are personally known to me or who have produced _____ as identification and who did/did not take an oath.

Notary Public

My commission expires: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by **Dr. Mary A. O'Banner,** on behalf of **Florida Memorial University Foundation, Inc.,** who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

Notary Public

My commission expires: _____

EXHIBIT "A"

LICENSE AREA

Parcel 109 B – A parcel of land being a portion of Section 43, William Traver's Grant, Township 7 South, Range 29 East, lying Westerly of Holmes Boulevard, Southerly of County Road No. 214 (West King Street) and Northerly of FEC Railroad in St Johns County, Florida.

EXHIBIT "B" TO ADDENDUM TO PURCHASE AND SALE AGREEMENT

RELOCATION LICENSE AGREEMENT

THIS RELOCATION LICENSE AGREEMENT (this "Agreement") is hereby made and entered into this ___ day of _____, 200_, by and between **FLORIDA MEMORIAL COLLEGE FOUNDATION, INC., A Florida not-for-profit corporation, now known as FLORIDA MEMORIAL UNIVERSITY FOUNDATION, INC.**, whose address is 15800 N.W. 42nd Avenue, Miami Gardens, Florida 33054 (hereinafter referred to as "FMUF"), and the **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 (hereinafter referred to as the "County").

WITNESSETH:

WHEREAS, FMUF is the fee simple owner of certain real property hereinafter referred to as the "License Area", located in St. Johns County, Florida, as more particularly identified in Exhibit "A", attached hereto, incorporated by reference and made a part hereof; and

WHEREAS, FMUF and the County have entered into that certain Purchase and Sale Agreement, of even date herewith, for real property including the License Area and (the "Purchase and Sale Agreement");

WHEREAS, FMUF desires to grant to the County the right to enter upon and into the License Area for the purposes of assessing, restoring and relocating the A.L. Lewis Arch (the "Arch"), as more fully set forth herein and as provided for in the Purchase and Sale Agreement; and

WHEREAS, FMUF is desirous of granting the County a license to accomplish the aforementioned purposes.

NOW, THEREFORE, for and in consideration of the terms, conditions and mutual covenants hereinafter contained, FMUF and the County, both attending to be legally bound, hereby agree as follows:

1. **Assessment.** FMUF hereby grants to the County, its agents and employees, the right, privilege and license to enter upon the License Area for the purpose of assessing the structural integrity of the Arch and performing a Level II architectural recording of the Arch by a qualified architectural historian (the "Assessment"). The structural integrity of the Arch shall be assessed by a licensed engineer and the County shall perform the Assessment in accordance with the terms and conditions of this Agreement. Any and all costs associated with the Assessment provided for in this Section 1 shall be borne by the County.

2. **Relocation.** After completion of the Assessment provided for in Section 1 of this Agreement, FMUF hereby grants to the County, its agents and employees, the right, privilege and license to enter upon the License Area for the purpose of relocating the Arch to a location designated by FMUF in its sole discretion (the "Relocation License Area") and under the direct supervision of FMUF (the "Relocation"). FMUF presently desires to relocate the Arch to Calvin Peete Park in St. Johns County. If FMUF decides to relocate the Arch to Calvin Peete Park, then the County and FMUF shall determine where in Calvin Peete Park the Arch should be located. If FMUF and the County cannot agree upon a Relocation site within Calvin Peete Park,

FMUF shall retain the right to designate an alternative Relocation site in its sole discretion. The County shall perform the Relocation in accordance with the terms and conditions of this Agreement. Any and all costs associated with the Relocation of the Arch provided for in this Section 2 shall be borne by the County.

3. **Restoration.** After completion of the tasks provided for in Sections 1 and 2 of this Agreement, FMUF hereby grants to the County, its agents and employees, the right, privilege and license to enter upon the Relocation License Area for the purpose of restoring the Arch to its original appearance based upon the Level II architectural recording produced in accordance with Section 1 of this Agreement (the "Restoration"). The County shall perform the Restoration in accordance with the terms and conditions of this Agreement, and the Restoration shall be as acceptable to FMUF in its sole discretion. Any and all costs associated with the Restoration of the Arch provided for in this Section 3 shall be borne by the County.

4. **Construction of Replica.** If any party who performs the Assessment determines that the Arch is not salvageable, cannot be relocated, or that any attempted Restoration of the Arch will not restore the Arch to the condition set forth in Section 3 of this Agreement, then the County shall construct a replica of the Arch (the "Replica"). Such Replica shall depict the Arch in its original condition and scale and shall be placed in a location to be designated by FMUF. Any and all costs associated with the construction and location of the Replica provided for in this Section 4 shall be borne by the County and, if applicable, the Replica shall be placed in a location to be determined in the same manner as provided for in Section 2 of this Agreement.

5. **Licenses and Permits.** The County shall obtain and pay for all municipal, county, state or federal licenses, permits or approvals that may be required for the performance of the rights and obligations under this Agreement, including, but not limited to, the Relocation, Restoration and construction of the Replica if applicable (hereinafter, "Relocation" shall mean Relocation, Restoration, or construction of the Replica as those terms are defined in this Agreement.")

6. **Term.** All Relocation work shall be completed by the County within twelve (12) months from the date of this Agreement (the "Term"). Both parties hereto agree that the Term and this Agreement shall continue despite the transfer or conveyance of the License Area to different ownership, in FMUF's sole discretion.

7. **Indemnification.** ^{To the extent permitted by law,} The County shall defend, indemnify and hold harmless FMUF, FMUF's officers, directors and employees, from liabilities, damages, losses and costs, including, but not limited, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of the County and persons employed or utilized by the County in the performance of the Agreement.

8. **Assignment Prohibited.** The County shall operate the license granted herein directly through its employees and shall not assign any right, privilege, or license conferred by this Agreement; nor may the County sublicense the whole or any part of the License Area.

9. **Waiver of Breach.** The waiver by the parties of any breach of any term contained in this Agreement shall not be deemed to be a waiver of such term for any subsequent breach of the same or any other term.

10. **Material Terms.** Each term of this Agreement is material. A breach by the County of any one of the terms of this Agreement shall be considered to be a material breach of the entire Agreement and shall be grounds for the termination of the entire Agreement by FMUF, after expiration of any applicable notice and cure period.

11. **Headings for Convenience Only.** The paragraph headings contained in this Agreement are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

12. **Force Majeure.** Any prevention, delay, or stoppage due to strikes, walkouts, labor disputes, acts of God, inability to obtain labor, materials, or reasonable substitutes for the same, governmental restrictions, controls, or regulations, enemy or hostile governmental action, civil commotion, fire, or any other causes beyond the reasonable control of the County, shall not be deemed to be a breach of this Agreement. The County shall have a reasonable time after cessation of any of the above-mentioned causes to render performance.

13. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Florida and any proceeding arising between the parties in any manner pertaining or related to this Agreement shall, to the extent permitted by law, be held in Miami-Dade County, Florida. Each party hereby knowingly, voluntarily and intentionally waives any right they may have to a trial by jury in respect of any litigation based upon the Agreement or arising out of, under or in connection with any other agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party. This provision is a material inducement for the parties entering into this Agreement.

14. **Modification.** Notwithstanding any of the provisions of this Agreement, the parties, by mutual consent, may agree to modifications or additions to it. FMUF shall have the right to grant reasonable extensions of time to the County for any purpose or for the performance of any obligation of the County under this Agreement.

15. **Counterparts.** This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

16. **Termination and Default.** FMUF shall provide the County with written notice of any material failure to perform or comply with the terms and conditions contained herein to be performed by the County. If the County fails to commence cure of said default within sixty (60) days of receipt of written notice, or does not provide FMUF with a written response within sixty (60) days after receiving notification, indicating the status of the County's resolution of the violations and providing for a schedule to diligently correct all deficiencies, FMUF shall have the right to terminate this Agreement, without penalty, upon thirty (30) days additional written notice to the County. The County shall provide FMUF with written notice of any material failure to perform or comply with the terms and conditions contained herein to be performed by FMUF. If FMUF fails to commence cure of said default within sixty (60) days of receipt of written notice, or does not provide the County with a written response within

sixty (60) days after receiving notification, indicating the status of FMUF's resolution of the violations and providing for a schedule to diligently correct all deficiencies, the County shall have the right to terminate this Agreement, without penalty, upon thirty (30) days additional written notice to FMUF.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first above written.

Witness
As to Waldemar J. Kropacek

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: _____
Waldemar J. Kropacek,
County Administrator

Witness
As to Waldemar J. Kropacek

ATTEST: Cheryl Strickland, Clerk
By: _____
Deputy Clerk

**FLORIDA MEMORIAL UNIVERSITY
FOUNDATION, INC.**

Witness
As to Dr. Mary A. O'Banner

By: _____
Mary A.O'Banner, Ph.D.,
Registered Agent

Witness
As to Dr. Mary A. O'Banner
STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20C__, by **Dr. Mary A. O'Banner**, who is personally know to me or who has produced a driver's license as identification and who did/did not take an oath.

Notary Public

My commission expires: _____

“EXHIBIT A TO RELOCATION LICENSE AGREEMENT”

LICENSE AREA

Parcel 109 B – A parcel of land being a portion of Section 43, William Traver’s Grant, Township 7 South, Range 29 East, lying Westerly of Holmes Boulevard, Southerly of County Road No. 214 (West King Street) and Northerly of FEC Railroad in St Johns County, Florida.