

SPECIAL MEETING  
APALACHICOLA CITY COMMISSION  
TUESDAY, OCTOBER 11, 2022 – 5:00PM  
BATTERY PARK COMMUNITY CENTER  
1 BAY AVE., APALACHICOLA, FLORIDA 32320

**Agenda**

You are welcome to comment on any matter under consideration by the Apalachicola City Commission when recognized to do so by the Mayor. Once recognized please rise to the podium, state your name for the record and adhere to the three-minute time limit for public comment. Comments may also be sent by email to the City Manager or to Commissioners.

- I. Call to Order**
- II. Agenda Adoption**
- III. Public Comment**
- IV. North Florida African American Corridor Project – Agreement**
- V. Local Technology Planning Team/TDC Review Committee - Appointments**
- VI. Adjournment**

Any person who desires to appeal any decision at this meeting will need a record of the proceeding and for this purpose, may need to ensure that a verbatim record of the proceeding is made which includes testimony and evidence upon which the appeal is based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 48 hours in advance of the meeting

## LEASE AGREEMENT

This LEASE AGREEMENT was entered into on \_\_\_\_\_, 2022, ("Effective Date") between CITY OF APALACHICOLA, a Florida a Florida Municipality, having its principal place of business at 192 Coach Wagoner Blvd, Apalachicola, Florida 32320, ("Lessor"), and North Florida African American Corridor Project, Inc., having its principal place of business at 179 Tenth St., Apalachicola, FL ("Lessee").

That Lessor, for and in consideration of the rents to be paid and of the covenants and agreements herein mentioned to be performed by Lessee, does hereby lease and demise to Lessee, and Lessee does hereby lease from Lessor, the areas herein described situated in Apalachicola, Florida, upon the following terms and conditions:

### 1. DESCRIPTION OF LEASED AREAS

The Lease covers the property known as the Apalachicola Center for History, Culture and Art located at 86 Water Street, Apalachicola, FL, County of Franklin, State of Florida (the "Premises").

### 2. USE BY LESSEE OF THE PREMISES

The Premises shall be used by Lessee for public, educational and cultural purposes consistent with the Florida Communities Trust Management Plan and with the approval granted by the Apalachicola City Commission, provided such use does not diminish the value of the Premises or constitute a nuisance, ordinary wear and tear excepted.

### 3. OCCUPANCY

Lessee shall be entitled to begin occupancy of the Premises as of the Effective Date of this Lease which shall be within thirty (30) days of completion of all ongoing renovations. The City Manager shall notify Lessee of the date the Premises shall be available for occupancy.

### 4. RENT; SECURITY DEPOSIT; RENT CREDIT; TERM; RENEWAL

The Rental amounts under the terms of this Lease include both monetary and non-monetary consideration as follows:

#### Monetary Amount

A. Initial Term – 12 months - Lessee shall pay \$10.00 annual rent

B. Subsequent Terms – The Tenant may request renewal of the Lease for three (3) subsequent one (1) year periods at the same rate (\$10.00/year) by providing notice sixty (60) days prior to the end of any prior term of its intent to renew. The City may approve such renewal at its sole discretion.

Such monthly rent shall be paid in advance on or before the tenth day of each calendar month. Any rental payment made in respect of a period of less than one month shall be prorated.

Lessee shall pay as additional rent hereunder all sales tax.

### **Non-Monetary Terms**

- A. Lessee shall be open during normal business hours for a minimum 30 hours a week.
- B. Lessee shall staff the Premises with adequate volunteers/employees to maintain operations during business hours. All Staff and Volunteers shall be trained, compensated, reimbursed or otherwise administered by the Lessee.

### **5. SECURITY DEPOSIT**

No security deposit shall be required.

### **6. QUIET ENJOYMENT**

Provided that Lessee complies with all of its obligations under this Lease, Lessor shall not interfere with the peaceful and quiet occupation and enjoyment of the Premises by Lessee during the term.

### **7. CONDITION OF PREMISES**

The Premises are leased to Lessee in their present physical condition (upon completion of renovations and state of title (including, without limitation, matters of survey and zoning, building and other laws, regulations and restrictions now and hereafter in effect), and Lessor makes no representation or warranty with respect thereto.

### **8. ADDITIONAL OBLIGATIONS OF LESSEE**

Lessee will, at its expense:

- (a) comply with all existing and future federal, state, and county and local statutes, laws, enactments, ordinances, rules, regulations, orders and other governmental requirements (" Governmental Requirements") applicable to Lessee's use or occupancy of the Premises, including, but not limited to, workmen's compensation laws and the Occupational Safety and Health Act of 1970 and all Governmental Requirements issued thereunder, and hold harmless, indemnify and defend Lessor from and against any claims, actions, damages, losses, costs and expenses, including reasonable attorneys' fees, made against or sustained by Lessor as a result of Lessee' s failure to comply with any Governmental Requirements;
- (b) be responsible for and protect itself against all risk of loss or damage by fire or other casualty to its own property and material and any other property and material used by it or under its control on the Premises;
- (c) secure and maintain a comprehensive general liability insurance policy covering against claims for bodily injury, death or property damage (including coverage of potential claims against the City by customers/clients/patrons/invitees or guests of the Lessee) occurring on, in or about the Premises and the adjoining property, streets, sidewalks and

passageways or by reason of the existence, ownership, use, occupancy or maintenance thereof, in amounts as would be maintained by a prudent owner of similar property but in no event less than \$1,000,000 for bodily injury or death to any one person, \$1,000,000 for bodily injury or death in any one accident, and \$1,000,000 per occurrence for property damage, such insurance to include contractual liability coverage for liabilities assumed by Lessee under this Lease and to include an additional insured endorsement making Lessor an additional insured thereunder in accordance with Section 17 hereof and proof thereof be provided to the City on an annual basis;

(d) prior to the effective date of this Lease, secure and deliver to Lessor Certificates of Insurance evidencing all insurance coverage required under this Lease, and including a provision that at least 30 days advance written notice will be given to Lessor prior to cancellation, termination, or any alteration of the policy or policies evidenced by such Certificate;

(e) keep and maintain the Premises in a safe and sanitary condition, and provide all labor, services and supplies which may be required in connection with the operation and maintenance of the Premises in a safe and sanitary condition; and

(f) pay all taxes which may be levied upon or assessed against all of Lessee's property and material and any other property and material used by Lessee or under its control on the Premises.

## **9. RIGHTS OF INGRESS AND EGRESS AND MOVEMENT OF MATERIALS**

Lessor agrees to make available to Lessee rights of ingress to and egress from the Premises by driveway and parking lot serving the Premises.

## **10. EASEMENTS**

Lessor reserves the right to grant such easements on, over, under and through, and to cause such improvements to be made upon the Premises as Lessor may deem necessary for the service or benefit of the Premises, including, but not restricted to, power, gas, telephone, water and storm and sanitary sewers; provided, however, that no easements shall be granted or improvements made which will unreasonably interfere with the use by Lessee of the Premises. Lessor shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damages of Lessee or other losses, damages or claims by Lessee by reason of such easements or improvements, and the obligations of Lessee under this Lease shall not be affected thereby. Lessor shall give Lessee prior notice of any work to be performed upon the Premises in connection with such easements or improvements and such work shall be accomplished so as to attempt to minimize any effect upon Lessee's use of the Premises while it is being performed.

## **11. REAL ESTATE TAX ASSESSMENT APPEALS**

N/A

## **12. WAIVER OF SUBROGATION RIGHTS**

It is agreed that neither party to this Lease shall be liable to the other party for any property loss, damage or claims therefor to the extent of the insurance proceeds received for such loss, damage or claims by the other party. This agreement constitutes a waiver of any and all claims for, and a complete release of, all such liability to the extent of such insurance proceeds, and a waiver of all rights of subrogation of the insurance carriers under the insurance policies of the respective parties with respect to such claims and liability. In the event that any circumstances arise which result in a conflict between the provisions of this Section 12 and the provisions of Section 17 (Liability Insurance for Lessor) below, the provisions of this Section 12 shall govern and control.

### **13. MAINTENANCE; UTILITIES**

During the term of this Lease, Lessee shall keep and maintain the Premises in as good order and repair as they are on the date of occupancy, reasonable wear and tear excepted; provided, however, that Lessor shall be responsible only for any necessary repairs to the basic structure of Lessor's building, i.e., the foundation, building supports, exterior walls and roof, excluding, however, any repairs which must be made to areas of such basic structure modified for Lessee, and further excluding any repairs to such basic structure made necessary by damages caused by any acts or omissions of Lessee, its employees or agents. All such excluded repairs to the basic structure must be made by Lessee. Structural repairs shall be deemed to be needed when failure to make the same will result in a potential or actual hazard to persons or property and/or impair the use or occupancy of the leased areas by Lessee. If either party fails to make the necessary repairs for which such party is responsible hereunder within 30 days of notice from the other party that such repairs are needed, or within a longer period of time as may be reasonable under the circumstances, the other party may make or cause to be made such repairs, and bill the responsible party for the same. Payment shall be due upon receipt by the responsible party of such bill.

Included in the base rent are all charges for water, sewer and electrical utility service to the Premises.

### **14. LESSOR'S RIGHT OF INSPECTION**

Lessor shall have the right, at any time during reasonable business hours, to inspect the Premises and Lessee will conform in all respects with all of Lessor's reasonable recommendations with respect to:

- (a) proper maintenance of the Premises and good housekeeping;
- (b) all portable fire protection equipment;
- (c) all rules and regulations of Lessor as to safety and conduct of employees and business guests of Lessee while on that portion of the area which is occupied or used by Lessor; and
- (d) Lessee's compliance with all its other obligations under the terms of this Lease.

### **15. ENVIRONMENTAL REQUIREMENTS**

Lessee agrees to comply with all present and future statutes, laws, ordinances, enactments, rules, regulations, orders, decrees, directives, mandates or other similar requirements of any federal, state or local government, court or public authority prohibiting, regulating or otherwise relating to environmental pollution and environmental control of any kind, including, but not limited to, air pollution, water pollution, noise pollution, solid waste pollution, toxic substance control (Environmental Requirements), including, but not limited to, Environmental Requirements under the Federal Water Pollution Control Act, as amended, the Federal Clean Air Act, as amended, the Resource Conservation & Recovery Act, the Noise Control Act, and the Toxic Substances Control Act, which are applicable to or arise out of or in connection with Lessee's use or occupancy of the Premises. Lessee further agrees to establish or continue a program to assure that all present and future Environmental Requirements shall be monitored and met. Lessee will comply with such Environmental Requirements at its sole cost and expense and will hold harmless, indemnify and defend Lessor from and against any claims, suits, damages, losses, costs and expenses, including reasonable attorneys' fees, made against or sustained by Lessor as a result of Lessee's failure to comply with any Environmental Requirements.

#### **16. INDEMNIFICATION BY LESSEE OF LESSOR**

Lessee will indemnify, defend and hold harmless Lessor from and against any and all claims, actions, losses, liabilities, costs and expenses, including reasonable attorneys' fees, resulting from injury (including death) to the person or damage to or loss of the property of anyone (including Lessor and Lessee and employees of Lessor and Lessee) arising out of or in connection with occupancy or use by Lessee, its employees, agents, contractors or business guests of the Premises, any adjacent areas, whether such claims, actions, damages, losses and liabilities are based upon or result in whole or in part from the active or passive negligence of Lessor, its employees or agents, or Lessor's strict liability in tort, breach of warranty, breach of contract or any other basis or cause or whatsoever whereby Lessor might be liable.

#### **17. LIABILITY INSURANCE FOR LESSOR**

Lessee shall make Lessor an additional insured under Lessee 's comprehensive general liability insurance policies applicable to the Premises by means of an additional insured endorsement, a copy of which shall be furnished to Lessor, so that to the extent of such insurance coverage, Lessor is defended from and insured against any and all claims, actions, losses, liabilities, costs and expenses, resulting from injury (including death) to the person or damage to or loss of the property of anyone (including employees of Lessee) arising out of or in connection with occupancy or use by Lessee, its employees, agents, contractors or business guests of the Premises, and any adjacent areas used in connection with the Premises. Such additional insured endorsement shall provide that the insurance afforded for Lessor is primary and any other valid and collectible insurance available to Lessor shall be excess. The insurance afforded for Lessor shall not be cancelled or reduced unless the insurer gives thirty (30) days written notice thereof to Lessor.

#### **18. ALTERATIONS AND ADDITIONS**

Lessee may not make any alterations or additions to the Premises without the prior written consent of Lessor. All approved improvements shall be properly permitted and inspected through the applicable local building department. All improvements made to the Premises by the Lessee shall



remain upon expiration of the lease and shall become the property of the City.

**19. SURRENDER AND REMOVAL AT END OF TERM**

Upon expiration or earlier termination of this Lease for any reason whatever, Lessee shall surrender the Premises, including all improvements thereto, and all plumbing, electrical, heating, air conditioning and other equipment and all fixtures affixed to the premises, in good repair and condition, reasonable wear and tear excepted, broom clean and free of Lessee's removable property. If Lessee shall fail to remove its property, or any part thereof, within thirty (30) days after such termination, Lessor shall have the right to remove and dispose of the same, and make any repairs caused by such removal, at the expense of Lessee

As stated above, all improvements made to the Premises by the Lessee shall remain upon expiration of the lease and shall become the property of the City.

**20. DAMAGE OR DESTRUCTION BY FIRE OR OTHER CASUALTY**

In the event the Premises is destroyed by fire or other casualty or damaged by such cause to the extent that the Premises are not rebuilt or restored, then this Lease shall terminate as of thirty (30) days after the date of destruction and Lessor shall give Lessee at least 30 days written notice of such termination; otherwise, Lessor shall rebuild or restore the Premises promptly and with reasonable diligence, and Lessee shall be entitled to a pro rata abatement of rent for the period required to rebuild or restore the Premises to the extent that the Premises are unusable.

**21. CONDEMNATION**

If the Premises or any necessary and substantial part thereof is taken by eminent domain, this Lease shall terminate on the date of such taking and the rent shall be apportioned as of that date. In any taking or condemnation proceedings, Lessee shall have the right to be a party and to lodge a claim against the condemning authority for any award it may be allowed at law, including, without limitation, an award for its trade fixtures, business and personal property and moving and relocation expenses; provided, however, that nothing herein shall entitle Lessee to any share in the award which Lessor would be entitled to receive if the Premises had never been subject to this Lease. Lessor shall promptly notify Lessee of any actual or contemplated taking of which it has knowledge.

**22. TERMINATION**

Either Party may terminate this Lease at its sole discretion and for any reason by providing **one hundred twenty (120)** or sixty (60) days written notice of termination to the other party.

In the event of any breach of this Lease or of any provision hereof by either party, which breach is not remedied within 30 days after written notice thereof by the other party, such other party may terminate this Lease by giving written notice of termination in writing to the party in breach, but any such termination shall not relieve either party of any obligations which accrued prior to such termination.

**23. LESSOR'S STATUTORY RIGHTS**

Nothing herein contained shall restrict or limit any rights or remedies which Lessor has or shall have under the laws of the State of Florida now or hereafter in effect.

#### **24. NOTICES**

Any notice which may be required or permitted to be given under any provisions of this Lease shall be deemed to have been effectively given and received upon deposit in the United States registered or certified mail, postage prepaid, and e-mail addressed as follows:

If to Lessee:

North Florida African American Corridor Project, Inc.  
c/o Myrtis Wynn, President  
179 Tenth St.  
Apalachicola, FL 32320  
E-MAIL -

If to Lessor:

City of Apalachicola  
192 Coach Wagoner Blvd.  
Apalachicola, Florida 32320  
E-MAIL – [twade@cityofapalachicola.com](mailto:twade@cityofapalachicola.com)

With Copy to:

Hartman Law Firm, P.A.  
c/o Daniel W. Hartman, City Attorney  
PO Box 10910  
Tallahassee, FL 32302  
E-MAIL – [dan@fllegalteam.com](mailto:dan@fllegalteam.com)

Either party may change its address for purposes of this provision by giving written notice of such change in the manner above provided.

#### **25. LIENS**

Lessee shall not suffer or permit any mechanic's, laborer's or materialman's lien to stand against the Premises or any part thereof, or against the interest of Lessee in the Premises, by reason of any work, labor, services or materials done for or supplied to or claimed to have been done for or supplied to Lessee or anyone holding the Premises or any part thereof through or under Lessee. If any such lien shall at any time be filed, Lessee shall cause the same to be discharged or bonded of record within 30 days after Lessee shall have learned of the same, by either payment, deposit, or bond; provided, however, that such discharge or bonding of record must be sufficient (a) to permit Lessor to obtain title insurance with no exception for such lien and (b) to prevent the holder of the lien from causing a sale, foreclosure or other title divestiture with respect to the Premises or any portion thereof. If Lessee shall fail so to discharge or bond any such lien within such 30-day



period, then, in addition to any other right or remedy of Lessor, Lessor may, but shall not be obligated to, procure the discharge of the same either by paying the amount claimed to be due by deposit or bonding, or Lessor shall be entitled, if it so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment, if any, in favor of the lienor, with interest, costs and allowances. Any amount paid or deposited by Lessor for any of the aforesaid purposes, and all costs and other expenses of Lessor, including reasonable counsel fees, in defending any such action or in procuring the discharge of such lien, with all necessary disbursements in connection therewith, together with the late charge from the date of payment or deposit by Lessor, shall be payable by Lessee to Lessor as additional rent within 5 days of demand therefor.

Nothing in this Lease shall be deemed to be the consent or request of Lessor, expressed or implied, for the performance of any labor or the furnishing of any materials for any construction, alteration, restoration or repair of, to or on the Premises or any part thereof, nor as giving Lessee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials which give rise to any lien against Lessor's interest in the Premises. Lessor shall have the right to post and keep posted at all times on the Premises any notices which Lessor shall deem appropriate for the protection of Lessor and the Premises from any such lien.

This Lease shall not be used as collateral for any purpose.

## **26. ASSIGNABILITY; SUBLEASING**

This lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, but Lessee shall have no right to assign this Lease or to sublet the Premises, or any part thereof, either voluntarily or by operation of law, without the prior written consent of Lessor.

## **27. FORCE MAJEURE**

Neither Lessor nor Lessee shall be responsible for delay or failure of performance of any of its obligations under this Lease caused in whole or in part by: Acts of God, wars, riots, fires, explosions, breakdowns or accidents; strikes, lockouts or other labor difficulties; lack or shortages of labor, materials, utilities, energy sources, compliance with governmental rules, regulations or other governmental requirements; any other like causes; or any other unlike causes beyond the control of the party whose performance is affected thereby. The foregoing shall be in addition to and not in limitation of any excuses for nonperformance available to the party whose performance is affected under any applicable law. The party whose performance is so affected shall make all reasonable efforts to remove such disability as soon as possible, except for labor disputes which shall be solely within such party's discretion.

## **28. INTEGRATION**

This Lease sets forth the entire agreement and understanding between the parties as to the subject matter of this Lease and any and all prior or contemporaneous proposals, negotiations, agreements, commitments and representations, oral or written, are merged herein. This Lease may not be modified or amended except by means of a writing duly executed by the parties subsequent to the date hereof which states that it is intended to amend this Lease.

**29. MISCELLANEOUS**

Each provision hereof shall be separate and independent and if any provision hereof or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remaining provisions hereof, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, as the case may be, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the extent permitted by law. All provisions contained in this Lease shall be binding upon, injure to the benefit of and be enforceable by, the respective successors and assigns of Lessor and Lessee to the same extent as if each such successor and assign were named as a party hereto. No waiver of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision.

**30. CAPTIONS**

The captions set forth at the beginning of each of the numbered paragraphs of this Lease are intended for purposes of reference only and are of no legal force and effect.

**31. FLORIDA LAW.**

This lease will be governed by the laws of the state of Florida, as to both interpretations and performance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**LESSOR:**

**City of Apalachicola, a Florida Municipality**

By: \_\_\_\_\_  
Travis Wade, City Manager

**LESSEE:**

**North Florida African American Corridor Project, Inc.**

\_\_\_\_\_  
By: Myrtis Wynn  
Its: President



**APALACHICOLA CITY COMMISSION  
REQUEST FOR BOARD ACTION  
Special Meeting Date: 10/11/22**

**SUBJECT:** Local Technology Planning Team/TDC Review Committee

**AGENDA INFORMATION:**

**Agenda Location:**

**Item Number:**

**Department:**

**Presenter:** Travis Wade

**BRIEF SUMMARY:** County Administrator Michael Moron has asked the City to appoint one member each to two County committees.

The first committee is the Local Technology Planning Team. This is the committee that will work with Department of Economic Opportunity to seek grant funding for broadband accessibility in the county. This committee will meet on a regular basis for the next year. This appointee does not have to be a city commissioner, any city resident that fit the categories listed on DEO's website is eligible to serve.

The second appointment is for the review committee that will hear presentations from individuals or firms that have submitted packets to provide specific services for TDC. After the presentations, the committee will then complete score sheets that will be forwarded to the Board of County Commissioners for selection. This committee will meet twice over the next 45 days. Since each Mayor serves on the TDC, they are not eligible to serve on this committee.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:** Appoint members to the two committees.

**FUNDING SOURCE:** N/A

**ATTACHMENTS:**

**STAFF'S COMMENTS AND RECOMMENDATIONS:**