

# UNIVERSITY OF FLORIDA FOUNDATION, INC.

2012 West University Avenue  
P.O. Box 14425 ■ Gainesville, FL 32604-2425  
Telephone: (352) 392-1691 ■ Fax: (352) 392-8736

- Direct Line: (352)392-9251
- E-mail: [sgoffman@uff.ufl.edu](mailto:sgoffman@uff.ufl.edu)
- Fax: (352)392-9833

January 9, 2001

Marion J. Radson, City Attorney  
City of Gainesville  
200 E. University Avenue, Suite 425  
P.O. Box 1110  
Gainesville, Florida 32602-1110



Re: License Agreement between the City of Gainesville and the University of Florida Foundation, Inc.

Dear Marion:

I am enclosing, for your further handling, the original recorded License Agreement. Please call me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Susan G. Goffman".

Susan G. Goffman  
Counsel

SGG/dkb

Enclosures

cc: Bruce D. DeLaney (w/out enclosure)

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**THIS AGREEMENT** made this 15th day of December, 2000, between the City of Gainesville, a municipal corporation of the State of Florida, (CITY), and the University of Florida Foundation, Inc., (LICENSEE).

**WITNESSETH:**

**WHEREAS**, the Licensee desires to obtain a license from the City for the purpose of constructing, maintaining and using certain right of way for an open air pedestrian plaza that is accessible to pedestrians and non-motorized vehicles, as more fully set forth herein; and

**WHEREAS**, The City is willing to grant this License under the terms and conditions as set forth herein.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants and conditions herein contained, it is agreed by the parties hereto as follows:

1. **License.** The City hereby grants to the Licensee and the Licensee hereby accepts from the City a license to construct, maintain and use certain right-of-way, as more fully described in Exhibit "A" and hereinafter referred to as the "Property" for an open air plaza as more fully described in paragraphs 5 and 6 below.
2. **License Term.** The term of this license will commence on the License Commencement Date; as defined in Exhibit B described below. The City and Licensee will execute a memorandum in the form attached as Exhibit "B" to reflect the date on which the term begins and ends (which date is the License Commencement Date) which date shall coincide with the demolition of the building located at 1938 W. University Avenue. Licensee agrees to provide to the City written notice at least 30 days in advance of the date demolition is scheduled for said building. In no event shall this date be later than December 31, 2002. The license term shall then extend for 40 years except as provided in paragraph 3. This License is expressly contingent upon Licensee's construction and completion of a 3-4 story building, to be known as Alumni Hall, located on the lot immediately east of the Property, on or before December 31, 2003. Unless otherwise terminated as provided in this License Agreement, upon the expiration of the 40 year term, this License Agreement shall be automatically renewed from year to year unless either party serves notice of termination to the other party at least 90 days prior to the end of the license year. If major capital improvements (not including routine maintenance) are needed on Property that require the expenditure of state funds, then upon approval by the City Commission, the term of this License may be extended at that time for an additional forty years.
3. **Right of Cancellation.** In addition to the City's right to terminate this license agreement in the event of default by Licensee, the City reserves the right to immediately terminate this license agreement after the passage of 5 years from the License Commencement Date, if the City Commission finds, after holding an advertised public hearing, that the Property is required for automobile or other motorized traffic circulation. In this event the City shall compensate Licensee in

an amount agreed to by the City Manager or designee and Licensee, provided the Licensee is not otherwise in default of this Agreement. In reaching the amount, the parties shall consider the actual value of the improvements on the Property. However, between the sixth year and the fifteenth year from the License Commencement Date, the value shall be amortized on a declining balance method. After the passage of 15 years, no compensation shall be due the Licensee. In the event the City and Licensee cannot agree on an amount, the matter shall be decided by an arbitrator selected by both parties whose decision shall be final.

4. **Consideration.** As additional consideration of this Agreement, the Licensee agrees to pay the City as monetary compensation for this license the sum of One (\$1.00) Dollar per year. The City hereby acknowledges receipt of forty dollars (\$40.00) representing the total monetary compensation due under this License Agreement. The Licensee further agrees to pay any taxes levied on the Property because of the use permitted under this License Agreement.
5. **Use.** The Licensee agrees that it will use the Property only for the purpose of constructing, maintaining and operating an open-air plaza as approved by the City as provided in paragraph 6. The plaza will be open and accessible to the general public and non-motorized vehicles except for: 1) university and alumni special events not to exceed 15 per year, as long as reasonable pedestrian and non-motorized vehicular access is maintained; and 2) special maintenance and construction purposes. The Licensee further agrees that it will not suffer or permit the premises or any part thereof to be used for any other purpose.
6. **Alterations.** It is agreed that Licensee shall alter the Property by converting the paved street and sidewalks to an open air pedestrian plaza. Licensee will install and maintain brick pavers, curbs, street-type furniture, and landscaping that will be consistent with the City's streetscaping projects in the College Park/University Heights Redevelopment District. Licensee agrees to submit plans to the City Manager or designee, for approval prior to any construction on the Property. Any modifications or changes to the approved plans shall also be subject to approval by the City Manager or designee. It is expressly agreed that all appurtenances presently or hereafter located in and upon the Property whether affixed thereto or not, are and shall become and remain the property of the City.
7. **Maintenance.** The Licensee shall at all times keep the Property free of trash and debris and in neat appearance. Licensee agrees, if notified by the City Manager or designee that any part of the Property is unsatisfactory in appearance, to remedy the condition within 24 hours.
8. **No Illegal Use.** The Licensee agrees not to use, nor suffer or permit any person to use in any manner whatsoever, the Property or any part thereof for any illegal purpose, or for any purpose in violation of any federal, state or municipal law, ordinance, rule or regulation of the City now in effect or hereafter enacted or adopted.
9. **No Interest in Real Property.** It is expressly understood and agreed that no real or personal property is leased to the licensee; that it is a Licensee not a lessee; that

the Licensee's right to occupy the Property and to operate the license hereby granted shall continue only so long as the Licensee shall comply strictly and promptly with each and all of the undertakings, provisions, covenants, agreements, stipulations and conditions contained herein. The City retains the public right-of-way over, under, across and through the Property in order to construct, operate and maintain public utilities. The City agrees to place the Property in the same condition that existed prior to any construction or maintenance of utilities.

10. **Insurance.** The Licensee shall procure at its own cost and expense and keep in full force and effect such liability insurance as will protect the Licensee, the City, and their officers, agents, and employees from any claims for damages to Property and for personal injuries, including death, which may arise on said Property. The following minimum limits of liability shall apply:

\$1,000,000 per occurrence – bodily injury

\$1,000,000 per occurrence – property damage

The insurance policy shall contain a 30 day cancellation clause. A Certificate of Insurance in the above minimum amounts and coverages shall be furnished the City, naming the City of Gainesville as an additional insured as respects this agreement.

11. **Indemnification.** Licensee will protect, indemnify and forever save and keep harmless the City, its employees, elected and appointed officers, and agents, from and against any damage, penalty, fine, judgement, expense or charge suffered, imposed, assessed or incurred for any violation or breach of law, ordinance, rule or regulation occasioned by any act, neglect or omission of the Licensee, or any employee or agent of Licensee. As to the City, the Licensee assumes all risks in the operation of this license and shall be solely responsible and answerable in damages for all accidents or injuries to person or property and hereby covenants and agrees to indemnify and keep harmless the City and its elected or appointed officers, agents, and employees from any and all claims, suits, losses, damage or injury to person or property of whatsoever kind and nature, whether direct or indirect, arising out of the operation of this license or the carelessness, negligence or improper conduct of the Licensee or any agent or employee. This indemnification shall not be limited to the insurance coverage herein provided for.
12. **Assignment.** The Licensee is permitted to assign the License to the State of Florida with prior written notification to the City. The Licensee is not permitted to assign this License Agreement to any other person or party. If the Licensee shall assign, transfer, convey or otherwise dispose of the same to any other person or party, the City reserves the right to declare this license terminated. In the event of assignment to the State of Florida, the University of Florida Foundation, Inc., or its successor, shall continue to indemnify and hold harmless the City as provided in paragraph 11 above in lieu of the State of Florida, and the assignment instrument shall so provide.

13. **Strict Compliance and Default.** Failure of the Licensee to strictly comply with its obligations under this license agreement shall constitute default. In the event of default, the City shall provide notice to Licensee of the default and allow the Licensee 30 days to cure the default. Failure of the Licensee to cure the default, or to begin a diligent effort to cure in the event the default cannot be reasonably cured within 30 days, shall be cause for immediate termination of this agreement without further notice to the Licensee.

14. **No Waiver or Breach.** City's failure on one occasion to demand Licensee's strict observance of Licensee's obligations under this License Agreement will not be construed as a waiver of the City's right to demand strict observance of Licensee's obligations on any subsequent occasion.

15. **Notice.** Any notice required under the terms of this License Agreement must be in writing and must be sent by certified mail to the address of the party to whom the notice is to be given. Addresses of the parties are as follows:

City: City Manager City of Gainesville P O Box 490 Gainesville FL 32602	Licensee: University of Florida Foundation, Inc. P.O. Box 14425 Gainesville, FL 32604-2425
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Copy: City Attorney  
 City of Gainesville  
 P O Box 1110  
 Gainesville, FL 32602

16. **Recording.** This License Agreement shall be recorded in the public records of Alachua County, Florida, at the expense of the Licensee.

17. **Entire Agreement.** This License Agreement contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect.

IN WITNESS WHEREOF, the parties to this License Agreement have set their hands and seals on the day and year first above written.

WITNESSES AS TO LICENSEE:

UNIVERSITY OF FLORIDA  
FOUNDATION, INC. (LICENSEE)

PA Robinson

Paul A. Robell

Patricia B. Burt

BY: Paul A. Robell

TITLE: Vice President

WITNESSES AS TO CITY:

CITY OF GAINESVILLE, FLORIDA

Jimmy Higgenbotham

BY: Wayne Bowers

D. Porady

City Manager

Approved as to Form and Legality

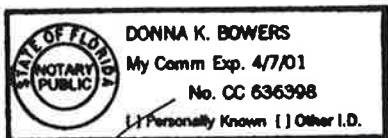
BY: [Signature]  
City Attorney

DEC 15 2000

STATE OF FLORIDA

COUNTY OF ALACHUA

The foregoing instrument was sworn to and subscribed before me on December 14, 2000, by Paul A. Robell as Vice President of University of Florida Foundation, Inc., a Florida corporation not-for-profit, on behalf of said corporation. He  is personally known to me or  has produced \_\_\_\_\_ as identification.



*Donna K. Bowers*

Notary Public, State and County aforesaid

(Notary seal)

**Exhibit "A"**

All of that right-of-way known as N.W. 20<sup>th</sup> Street lying between Block 1 of College Court as per Plat Book "A", page 134 of the Public Records of Alachua County, Florida, and lying south of a westerly extension of the north line of said Block 4 of College Park. Lying and being in the City of Gainesville, Florida.

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Exhibit "B"

Memorandum of License Commencement Date

The undersigned are City and Licensee, respectively, in that certain License, dated \_\_\_\_\_, 2000.

The purpose of this memorandum is to establish the License Commencement Date as \_\_\_\_\_ and to give notice of the term to all whom it may concern.

The term of the License begins on \_\_\_\_\_ at 12:01 a.m. and ends \_\_\_\_\_, at 11:59 p.m., unless sooner terminated as provided in the License.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

WITNESSES AS TO LICENSEE:

UNIVERSITY OF FLORIDA  
FOUNDATION, INC. (LICENSEE)

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

\_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

WITNESSES AS TO CITY:

CITY OF GAINESVILLE, FLORIDA

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

BY: \_\_\_\_\_

City Manager

Approved as to Form and Legality

BY: \_\_\_\_\_

City Attorney