



# CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 03/20/07

**SUBJECT:** Second Amendment and Restatement of Lease Agreement between City of Port Orange and Palmer College Foundation, Inc.

**DEPARTMENT:** Administration

**RECOMMENDED MOTION:**

Motion to approve the Second Amendment and Restatement of Lease Agreement with Palmer College Foundation and authorizing the Mayor and City Manager to execute the agreement.

**SUMMARY:**

The Second Amendment and Restatement of Lease Agreement is attached for your review.

**ATTACHMENTS:**  Ordinance  Resolution  Budget Resolution

Other  Support Documents/Contracts Available for Review in Manager's Office

CITY ATTORNEY *[Signature]* Approved as to Form and Legality

Date 3-12-07

CITY MANAGER *[Signature]* Approved Agenda Item For:

3/20/07

**COUNCIL ACTION:**  Approved as Recommended  Disapproved  Tabled Indefinitely  
 Continued to Date Certain  Approved with Modification:

This Document Prepared by:  
Margaret T. Roberts, City Attorney  
City of Port Orange  
1000 City Center Circle  
Port Orange, FL 32129

## **SECOND AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT**

**THIS LEASE AGREEMENT** is made and entered the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, with its principal business offices located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129 ("City" or "Landlord"), and **PALMER COLLEGE FOUNDATION, INC.**, f/k/a Palmer Chiropractic University Foundation, Inc., a not-for-profit corporation duly organized under the laws of the State of Iowa, in good standing and authorized to do business in the State of Florida and d/b/a Palmer College of Chiropractic, Florida, having its principal business office located at: 4777 City Center Parkway, Port Orange, Florida 32129 ("Palmer" or "Landlord"), and hereinafter collectively referred to as the "Parties".

WHEREAS, the Parties entered into a Lease Agreement for the Allen Green Civic Center dated May 9, 2002; and

WHEREAS, the Parties entered into a First Amendment and Restatement of Lease Agreement for the Allen Green Civic Center dated February 10, 2003; and

WHEREAS, the Parties desire to amend the First Amendment and Restatement of Lease Agreement as set forth in this Second Amendment and Restatement of Lease Agreement, hereinafter referred to as the "Second Amended Lease Agreement."

NOW, THEREFORE, the Parties, for good and valuable consideration, receipt whereof is hereby acknowledged, agree as follows:

1. **Demised Premises.** The City is the owner of and hereby leases to Palmer and Palmer hereby leases and rents from the City the land and improvements located thereon as more specifically defined hereafter. The demised premises is commonly referred to as the "Allen Green Civic Center" consisting of **16,972** square feet on the first floor, **2,955** square feet on the second floor and an expansion consisting of **9,404** square feet, for a **total of 29,331 square feet** of the building and structures, together with common grounds and vehicular parking facilities located at: 4705 Clyde Morris Boulevard, Port Orange, Volusia County, Florida and more particularly described on **Exhibit "A"** attached hereto ("Demised Premises"). Palmer shall occupy the Demised Premises as approved by the City Manager and the Parks and Recreation Director and as shown on the floor plan as described on **Exhibit "B."** Palmer, and its agents, employees and invitees shall have the non-exclusive right with others designated by the City to the free use of the common areas in the building and on the common grounds for

the intended and normal purpose of such common areas and common grounds. Common areas shall include, but not be limited to, elevators (if any), sidewalks, parking areas, driveways, hallways, stairways, public restrooms, common entrances, lobby and other similar public areas and access ways. The City may change the common areas and common grounds if such changes do not materially and unreasonably interfere with Palmer's access and use of such common areas and common grounds.

2. **Term.** The term of this lease shall be for two years, commencing on the 1st day of April, 2007, and extending until midnight on March 31, 2009, and for any additional periods of time during which the Demised Premises is leased by Palmer pursuant to the option granted hereafter ("Term"), at the rent and upon the terms, covenants and conditions herein contained. Palmer in good standing shall have the option to extend this Lease Agreement for one additional one year term, subject to the rights of termination as provided in this Lease Agreement. Palmer shall request approval of the extension in writing sixty (60) days prior to the end of the initial term or extended term. The request shall identify the space requirements for the extension if less than the total square footage of the Demised Premises. The City shall have limited use of the auditorium in the facility. The City and Palmer shall mutually agree upon the schedule for use of the auditorium. Nothing in this Lease Agreement shall prohibit the City from reasonable use of the facility or remaining properties as long as such use does not interfere with Palmer's use of the Demised Premises for purposes of operating an educational institution. The extension in any option year shall not become effective until approved by the City Council for the City of Port Orange, Florida.
  
3. **Palmer Expansion.** Palmer plans to enlarge the parking lot to meet its needs, and shall design the parking lot to include an improved access drive aisle to the adjacent Volusia County Library parking lot located on City Center Circle, hereinafter referred to as the "Improvements." It is the City's intent that the library access aisle improvements shall be limited to the area for connection and may terminate at the level grassed parking area. The site plan, attached hereto as **Exhibit "C,"** shall be subject to revision as otherwise provided in this Lease Agreement and as approved by the City Manager. **Palmer shall receive a rental credit not to exceed \$330,000.00 as otherwise established in this Second Amendment and Restatement of Lease Agreement in exchange for the Improvements.** This amount is inclusive of all design of the Improvements, including stormwater, as well as parking lot permitting, surveying, construction, landscaping, lighting and inspection services. The amount paid for design services shall not exceed the hourly rate paid by the City for engineering design services. The City reserves the right to review and verify the bid amount to determine if the prices of the project are reflective of the market for similar projects. The City shall only grant credits for the lowest responsible bid as determined by the City. Palmer shall obtain the City's approval of the site designs and the bid award prior to construction.

4 **Payments and Credits.**

- a. **Rental.** The rental shall be based upon the rate of \$13.30 per square foot of the Demised Premises totaling 29,331 square feet and shall equal **Three Hundred Ninety Thousand One Hundred Two and 50/100 Dollars (\$390,102.50) annually, and shall be payable in twelve (12) equal monthly installments of Thirty-two Thousand Five Hundred Eight and 53/100 Dollars (\$32,508.53).**

Each rental payment described in Paragraph 4.a. of this Lease Agreement shall be payable on the first day of the month and each successive first day of the month thereafter, in advance, without notice or demand, **commencing on April 1, 2007,** hereafter referred to as the "Date of First Payment" and shall be delivered to: City of Port Orange, Florida, Attention: Accounts Receivable, 1000 City Center Circle, Port Orange, FL 32129. The rental specified herein shall be net to the City during the term of this Lease. The rental shall include the City's cost of insurance for the real property and general liability, cost of maintaining the structural, mechanical, electrical, plumbing, elevator or access equipment, if any, and other components for the building, cost of maintaining the surrounding grounds for the Demised Premises. All other costs, expenses and obligations of every kind including but not limited to electric, water and sanitary sewer services, telecommunications services, maintenance, janitorial and cleaning services relating to the Demised Premises which may arise or become due during the term of this Lease shall be paid by Palmer. The City shall be indemnified by Palmer against such costs, expenses, and obligations.

- b. **Palmer Credit.** The value of the parking lot expansion made by Palmer to the Demised Premises shall be established at the time of issuance of the building permit pursuant to fee schedules utilized by the City for such purposes and the value, **not to exceed Three Hundred Thirty Thousand and no/100 Dollars (\$330,000.00),** shall be applied as a credit to the rental payment due the City. **Rental credit for the newly expanded parking lot shall be initiated upon the first month following the receipt of a Certificate of Completion, and shall be applied to the rental payments for the following year to be credited in twelve (12) equal monthly installments of \$27,500.00 per month (\$330,000.00 divided by 12).** In the event Palmer has a credit balance at the termination of this Lease Agreement, the credit balance may be applied by Palmer to the fees charged for Palmer's use of any other City of Port Orange, Florida facility that is open and available to the public. The City, upon review of reasonably necessary change orders associated with the completion of Palmer's parking lot expansion, as shown on the plans approved by the City, shall increase or decrease the credit accordingly for the rental payment due the City.

Beginning the first month following the receipt of a Certificate of Completion for the expanded parking lot, and based on a rental credit of Three Hundred Thirty Thousand and no/100 Dollars (\$330,000.00), the total amount of the rental credit shall be applied in twelve (12) equal monthly credits of \$27,500.00. In the event the total rental credit is less than \$330,000.00, the rental credit and monthly payment shall be adjusted accordingly.

- c. **Renewal and Replacement Payment.** Beginning April 1, 2008, Palmer shall pay to the City the amount of Fifty Thousand and no/100 Dollars (\$50,000.00) in twelve (12) equal monthly installments of Four Thousand One Hundred Sixty-six and 67/100 Dollars (\$4,166.67) to cover the costs to the City for painting and replacing the carpet throughout the Demised Premises after Palmer vacates the Demised Premises.

5. **Use of Premises.**

- a. Palmer shall use the Demised Premises for a private college, administrative offices, and such uses as are generally appurtenant to the operation of a private college and campus. Palmer shall comply with all federal, state and local laws, rules and regulations applicable to the use of the Demised Premises. Palmer shall comply with the special event ordinances of the City of Port Orange for any special events held on the Demised Premises.
- b. The City reserves the right upon 24 hours notice to Palmer to use a portion of the Demised Premises for an emergency evacuation shelter for persons as designated by the City. The City shall use the general assembly room (auditorium), kitchen, restrooms and other common areas, access ways and common grounds for emergency management purposes. Such use shall be considered an operation of the City who shall be responsible for any damage resulting from said operation.
- c. **The City further reserves the right to use the new vehicular access and all driveways and parking lot areas across and within the Demised Premises for the purposes of vehicular and pedestrian ingress, egress, parking, and access to the City's adjoining property. The City's adjoining property includes the playing fields, the library parking and the fire station. The City may exercise its right over the Demised Premises during all times, except the normal business hours of the college administrative offices. The City shall prioritize its utilization of the Demised Premises to the northern most driveways and parking spaces for the vehicular ingress and egress from and to Clyde Morris Boulevard, except during special events requiring overflow parking to use the new vehicular access driveways leading to the adjoining City property northeast of the Demised Premises. Palmer shall provide a sketch of the intended**

**vehicular ingress and egress to the adjoining property that shall be subject to the approval of the City Manager.**

6. **Fixtures and Alterations.** Palmer shall not make or cause to be made any alterations, additions to the structural, mechanical, electrical, plumbing, access equipment or other components of the building and surrounding site improvements without first notifying the City as set forth in this paragraph. For all contemplated changes to the components of the building, Palmer shall supply to the City plans and specifications for such work, obtain written approval from the City Manager who shall be the Lease Administrator for the City, and Palmer shall apply for and obtain such permits as may be required under the Land Development Code of the City of Port Orange, Florida and other governing entities. Palmer shall provide performance and payment bonds equal to the value of all contracts for improvements naming the City as an insured. Palmer shall do all things necessary to prevent the filing of any liens for work, labor, services or materials performed or supplied or claimed to have been performed or supplied to Palmer, or anyone holding the Demised Premises, or any part of them, through or under Palmer. If any claim of lien is filed, Palmer shall have it cancelled of record within thirty (30) business days after the date of the filing or, if Palmer in good faith determines that the lien should be contested, Palmer shall furnish security to release the claim of lien as a lien against the property and to prevent any foreclosure, pending resolution of the contest. If Palmer does not release the claim of lien, the City may, but shall not be obligated to, release the claim of lien either by paying the amount claimed to be due or by procuring the release of claim of lien by giving security or in such other manner as may be prescribed by law. Palmer shall repay to the City all sums disbursed or deposited by the City pursuant to the foregoing provisions of this paragraph, including the City's costs, expenses and attorneys' fees reasonably incurred in connection therewith as additional rent hereunder on demand. Nothing contained herein shall imply any consent or agreement of the City or the owner of the entire premises to subject their interests to liability under any mechanics' or other lien law whether or not the performance or the furnishing of such work, labor, services or materials to Palmer or anyone holding the Demised Premises, or any part of them, through or under Palmer has been consented to by the City or the owner of the premises.
7. **Repairs to Demised Premises.** Upon learning of defects or operational deficiencies, Palmer shall provide verbal and written notice to the City identifying components of the building that require repair. The City shall expeditiously commence and complete the repair, replacement or restoration of the building component to comply with all applicable building, plumbing, electrical, mechanical, accessibility and other codes and in compliance with the purchasing policies duly adopted by the City of Port Orange, Florida.
8. **Items Installed by Palmer.** All additions, alterations, expansions and improvements to the components of the building, grounds and parking lots, including but not limited to wall, ceiling and floor coverings, made by Palmer shall

be the property of the City and shall remain the property of the City for the term of this Lease or any extension or renewal thereof.

9. **Signs.** Palmer shall have the right to place upon the Demised Premises such sign or signs as may be necessary to designate the Demised Premises. Such signs shall be maintained in good condition and repair at all times, and shall comply with all zoning and sign requirements of the City of Port Orange. All permits necessary for such signs shall be obtained by Palmer at Palmer's expense.
10. **Utilities Services.** Palmer shall be responsible for all utility services and shall maintain an individual account with the various providers. Palmer shall be responsible for arranging access to and all fees associated with telecommunications services; including, but not necessarily limited to, telephone service, fire and security system monitoring, facsimile, and internet connection.
11. **The City's Right of Entry.** The City, or the City's agents or representatives, shall have the right to enter the Demised Premises during all reasonable hours with reasonable notice to Palmer to inspect the Demised Premises or to make repairs, additions, or alterations as may be deemed necessary for the safety of Palmer, or for the preservation of the Demised Premises or the building. The right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions, which do not conform to this Lease Agreement or to the rules and regulations of the Land Development Code as the same relates to the building and Demised Premises. Palmer shall at all times provide the City with keys to all portions of the Demised Premises.
12. **Assignment.** Palmer shall not sell, assign, mortgage, pledge or in any manner transfer this Lease or any estate or interest thereunder and shall not sublet the leased premises or any part thereof without previous written consent of the City in each instance. The consent by the City to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. The City may withhold its consent to a proposed assignment of lease or sublease for any reason and shall not be required to accept a proposed assignee or sublease regardless of the reputation or financial responsibility of same. This prohibition against assigning or subletting shall be construed to include an assignment or subletting by operation of law. Palmer shall not permit any licensee or concessionaire therein without previous written consent of the City in each instance. The consent by the City shall not be unreasonably withheld for any licensee to use a portion of the Demised Premises in furtherance of the college operation including, but not limited to, a bookstore or food/refreshment vending machine concession. Further, the consent of the City shall not be unreasonably withheld for any licensee to temporarily use a portion of the Demised Premises in furtherance of the college operation including, but not limited to, college related expositions for equipment and professional products or services commonly recognized in the chiropractic profession, if limited to a maximum average of twenty (21) days per calendar quarter.

13. **Default by Palmer.** If any installment of rent shall remain due and unpaid for 30 days, or if Palmer shall violate or default on any of the other covenants, agreements or stipulations of this Lease Agreement, the City may, at its option, and without notice in the case of failure to pay rent, and upon reasonable notice and opportunity to cure in the case of the breach of any of the other covenants, if such breach continues unremedied, elect to declare the entire balance of the rent for the leased term immediately due and payable by Palmer, may terminate Palmer's right to possession of the Demised Premises and enter the Demised Premises and remove all persons, furniture and equipment located therein, and seek any and all remedies available to the City by statute or law. If Palmer defaults on any covenant other than the payment of rent, the City shall set forth in the notice, a reasonable time to cure the default. Palmer shall take immediate steps to remedy the breach and shall diligently pursue such steps until completed and accepted by the City. If the breach continues after the expiration of a reasonable time to cure, then the City may terminate Palmer's right to possession of the Demised Premises and enter the Demised Premises and remove all persons, furniture and equipment located therein, and seek any and all remedies available to the City by statute or law. Palmer expressly agrees that the City acquires rightful possession upon entry if Palmer breaches any covenant of this Lease.
14. **Abandonment.** If Palmer abandons or vacates the Demised Premises or is dispossessed for cause by the City before the termination of this Lease, or any renewal of this Lease, the City may, on giving ten (10) days written notice to Palmer, declare this Lease forfeited and shall, in such event, make reasonable efforts to relet the premises. Palmer shall be liable to the City for all damages suffered by the City by reason of such forfeiture. Damages shall include, but shall not be limited to, the following: (a) all actual damages suffered by the City until the property is relet, including reasonable expenses incurred in reletting or in attempting to relet; and (b) the difference between the rent received when the property is relet and the rent reserved under this Lease. After the premises have been relet, Palmer agrees to pay to the City, on the last day of each rental period, the difference between the rent received for the period from reletting and the rent reserved under this Lease for that period.
15. **Loss or Destruction of Demised Premises.** If the Demised Premises become, as a practical matter, totally untenable after a casualty loss such as fire, storm, explosion, earthquake, or other casualty loss, this Lease shall be at an end from such time, except for the purpose of enforcing rights and obligations that may have then accrued under this Lease, including but not limited to, the payment of insurance claims and indemnity. The rental shall then be accounted for between the City and Palmer up to the time of such injury or destruction of the Demised Premises, Palmer paying up to such date and the City crediting to Palmer the rents collected beyond such date, if any. Should only a part of the Demised Premises be rendered untenable, the rental shall abate in the proportion which the injured part bears to the whole Demised Premises, and



such part so injured shall be restored by the City as speedily as practicable, after which the full rent shall recommence and the Lease continue according to its terms.

16. **Surrender or Early Termination of Lease by Palmer.** The City agrees that Palmer may terminate this Lease Agreement after March 31, 2009 upon providing to the City 30 days written notice in advance of the intended voluntary or other surrender by Palmer of the Demised Premises. In the absence of any default or breach of covenants as otherwise set forth in this Lease Agreement, such cancellation shall relieve Palmer of any further obligation for unpaid monthly rental payments not yet due and payable.
17. **Liability for Attorney's Fees.** In the event civil action shall be brought by the City and the City prevails for a wrongful withholding of possession of the Demised Premises, for the recovery of any rent due under the provisions of this Lease, or because of a breach of any other covenant contained in this Lease, on the part of Palmer to be kept or performed, Palmer shall pay to the City a reasonable attorney's fee which shall be fixed by the court. In the event civil action shall be brought by Palmer and Palmer prevails for enforcement of any term or condition of this Lease Agreement, the City shall pay to Palmer a reasonable attorney's fee which shall be fixed by the court.
18. **Recordation.** This Lease shall not be recorded by Palmer without the consent of the City.
19. **Waste.** Palmer agrees to commit or suffer no act that would result in damage to or waste of the Demised Premises.
20. **Palmer's Personal Property.** All personal property of Palmer in the Demised Premises shall be and remain in the Demised Premises at Palmer's sole risk and the City shall not be liable for any damage to nor loss of such personal property arising from any acts of negligence of any other persons; nor from the leaking of the roof; nor from the bursting, leaking or overflowing of water, sewer, or steam pipes; nor from heating or plumbing fixtures; nor from electric wires or fixtures; nor from any other cause whatsoever. Notwithstanding the foregoing, the City shall maintain personal property coverage for damage to the personal property of Palmer resulting from the negligence of the City's employees and agents.
21. **The City's Personal Property.** The personal property of the City in the Demised Premises is described on the inventory attached hereto as **Exhibit "D."** The inventory shall remain within the Demised Premises and Palmer shall be permitted to utilize the inventory for its operations. Palmer shall be responsible for any damage to the inventory and shall immediately repair any damage incurred. Upon termination of this Lease the inventory shall be returned to the City in the same condition as originally received, excepting normal wear and tear.

22. **Insurance, Loss, Indemnity, Liability.**

- a. Palmer shall during the entire term of this Lease except as provided otherwise, keep in full force and effect a policy of liability and property damage insurance with respect to the Demised Premises, and the building in which the limits of public liability shall not be less than One Million Dollars (\$1,000,000.00) per occurrence and in which the property damage liability shall not be less than the full insurable, replacement value of the property and one-half of the cost of this property damage liability coverage shall be paid by the City; comprehensive automobile liability for owned, hired and non-owned vehicles in the amount of One Million Dollars (\$1,000,000.00) combined single limit per occurrence; worker's compensation complying with the statutory coverage requirements; professional liability for all employees and students and educators legal liability. Property damage liability insurance coverage shall commence upon the Date of First Payment. During renovation and expansion of the Demised Premises, Tenant shall maintain builders risk coverage for the full insurable value of the additions, alterations and expansion. The policy(ies) shall name the City, as an additional insured, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) days prior written notice. The insurance shall be evidenced by a certificate in a form acceptable to the City, stating the amount of any "deductible," written by an insurance company reasonably acceptable to the City, and a copy of the policy or certificate of insurance shall be delivered to the City prior to the commencement of this Lease and not less than thirty (30) days prior to the expiration of the term of the insurance, whether expiration is due to lapse of time or cancellation or for any other reason. In the event Palmer shall fail to procure the insurance, the City may, but shall be under no obligation to, procure insurance in which event Palmer agrees to pay to the City, as additional rent, the amount of the premium on the first day of the month following the month in which the City notifies Palmer of the amount of the premium due.
  
- b. Palmer will indemnify, defend and hold the City and its officers, agents, representatives and employees harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence resulting from Palmer's operation of the college and its use and occupancy of the Demised Premises or any part of the Demised Premises occasioned wholly or in part by any act or omission of Palmer or those holding under Palmer or Palmer's agents, and employees, including students under the supervision of instructors and student body activities sanctioned by Palmer. In the event that the City shall, without fault on its part, be made a party to any litigation commenced by or against Palmer, Palmer shall protect and hold the City and its agents, representatives, and employees, harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by the City, or any of them, in connection

with any litigation. Palmer shall also pay all costs, expenses, and reasonable attorney's fees that may be incurred or paid by the City in enforcing the terms, covenants and obligations of this Lease on Palmer's part to be performed. Palmer shall fully comply with all health and police regulations of insurance carriers writing policies covering the building and Demised Premises. The City shall not be responsible for student actions occurring on the Demised Premises.

23. **Severability.** If any portion of this Lease shall be adjudged to be invalid, such portion shall be deemed severable, and shall not invalidate or impair the Lease Agreement as a whole or any other provision of the Lease Agreement.
24. **The City Not a Partner.** It is expressly understood that the City shall not be construed or held to be a partner or associate of Palmer in the conduct of its business. The relationship between the Parties hereto is and shall remain at all times that of Landlord and Tenant.
25. **Notices.** Except for the monthly rental, all notices shall be sent by certified or registered mail or shall be delivered in hand to:

**Landlord:** Attention: Lease Administrator/City Manager  
**Mailing Address:** City of Port Orange, Florida  
1000 City Center Circle  
Port Orange FL 32129

**Tenant:** Attention: Chief Financial Officer  
**Mailing Address:** Palmer Chiropractic University Foundation  
1000 Brady Street  
Davenport, Iowa 52803

This paragraph shall apply to notices provided for in this Lease or by the laws of the State of Florida.

26. **Written Agreement.** This Lease contains the entire agreement between the Parties hereto and all previous negotiations leading thereto, and it may be modified only by an agreement in writing signed and sealed by the City and Palmer. No surrender of the Demised Premises or of the remainder of the term of this Lease shall be valid unless accepted by the City in writing. This Lease shall be interpreted in accordance with the laws of the State of Florida and venue for any litigation involving this Lease shall be in Volusia County, Florida.
27. **Time.** Time is of the essence in all of the terms and provisions of this Lease.
28. **Peaceful Possession.** Subject to the terms, conditions and covenants of this Lease, Palmer shall and may peaceably have, hold and enjoy the Demised Premises without hindrance or molestation by the City.

29. **Captions.** The captions appearing in this Lease are for reference purposes only and shall not be considered to vary, modify, or amend said Lease.
30. **Counterparts.** This Lease Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile of an executed copy of this Lease Agreement shall be deemed valid as if an original signature was delivered.

**IN WITNESS WHEREOF**, the Parties hereto have signed, sealed, and delivered this Lease Agreement the day and year stated hereinafter.

**Landlord:** CITY OF PORT ORANGE, FLORIDA

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Allen Green, Mayor

\_\_\_\_\_  
Witness

Attest: \_\_\_\_\_  
Kenneth W. Parker, City Manager

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Date Signed: \_\_\_\_\_, 2007

Corporate Seal

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Allen Green and Kenneth W. Parker, the Mayor and City Manager, respectively, duly authorized to execute the foregoing SECOND AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT on behalf of the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, and who [ ] are personally known to me, or [ ] have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
Printed name, commission and expiration:

(Seal)

**Tenant:** Palmer College Foundation, Inc., f/k/a Palmer Chiropractic University Foundation, Inc., an Iowa not for profit corporation, d/b/a Palmer College of Chiropractic, Florida

\_\_\_\_\_  
*Witness*

By: \_\_\_\_\_  
Tom Tiemeier, Authorized agent

\_\_\_\_\_  
*Witness*

Date Signed: \_\_\_\_\_, 2007

Corporate Seal

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Tom Tiemeier, Chief Financial Officer and being duly authorized to execute the foregoing SECOND AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT on behalf of Palmer College Foundation, Inc., f/k/a Palmer Chiropractic University Foundation, Inc., a not-for-profit corporation, and who [ ] is personally known to me, or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

*Printed name, commission and expiration:*

(Seal)

EXHIBIT A

THE WEST ONE-HALF (1/2) OF THE FOLLOWING DESCRIBED PROPERTY:

Part of the South one-half of Government Lots 5 and 6, Section 8, Township 16 South, Range 33 East, Volusia County, Florida, being more particularly described as follows:

From a Point of Beginning being a concrete monument marking the Northwest corner of Lot 3, KINGSWOOD SUBDIVISION as recorded in Map Book 35, Pages 113 and 114 of the Public Records of Volusia County, Florida; thence South 00 degrees 18 minutes 15 seconds East along the West line of Lots 3 through 8 (shown as S. 00-38-50 E on said plat) for a distance of 450.06 feet to a concrete monument marking the Northeast corner of Lot 10, said KINGSWOOD SUBDIVISION; thence South 89 degrees 20 minutes 08 seconds West along the North line of Lots 10 through 18 (shown as S 89-01-00 W on said plat) for a distance of 806.64 feet to the Easterly right of way line of Clyde Morris Boulevard (a 100 foot wide right of way as described in Official Records Book 3331, Page 587); thence North 07 degrees 30 minutes 34 seconds West along said East right of way line for a distance of 453.28 feet to the North line of the South one-half of said Government Lots 5 and 6, said North line being also the North line of the South 1/2 of the Southwest 1/4 of said Section 8; thence North 89 degrees 20 minutes 08 seconds East along said North line of the South one-half of Government Lots 5 and 6, being along the South boundary of lands described in Official Records Book 3148, page 1572, and Official Records Book 1619, page 322, for a distance of 863.50 feet to the Point of Beginning of this description.

THE ABOVE PROPERTY MAY ALSO BE DESCRIBED AS FOLLOWS:

THE WEST ONE-HALF (1/2) OF THE FOLLOWING DESCRIBED PROPERTY:

A portion of the Southwest quarter of Section Eight (8), Township Sixteen (16) South, Range Thirty-Three (33) East, described as follows:

Commencing at a 2-inch iron pipe marking the Southwest quarter of said Section 8, thence North 88 degrees 44 minutes 50 seconds East along the Southerly line of said Section 8 a distance of 891.55 feet to a point in the center line of the Samsula-Port Orange Road; thence North 7 degrees 52 minutes 40 seconds West along the center line of said Samsula-Port Orange Road a distance of 872.02 feet to Place of Beginning; thence North 89 degrees 3 minutes East a distance of 856.81 feet; thence North 0 degrees 38 minutes 10 seconds West a distance of 450 feet to a point in the North line of the South half of the Southwest Quarter of said Section 8, thence South 89 degrees 03 minutes West along the North line of the South half of the Southwest quarter of said Section 8 a distance of 914.02 feet to the center line of the said Samsula-Port Orange Road; thence South 7 degrees 52 minutes 40 seconds East a distance of 453.31 feet to the Place of Beginning, LESS AND EXCEPT that portion taken for road right-of-way.

EXHIBIT "A"

Exhibit "B"

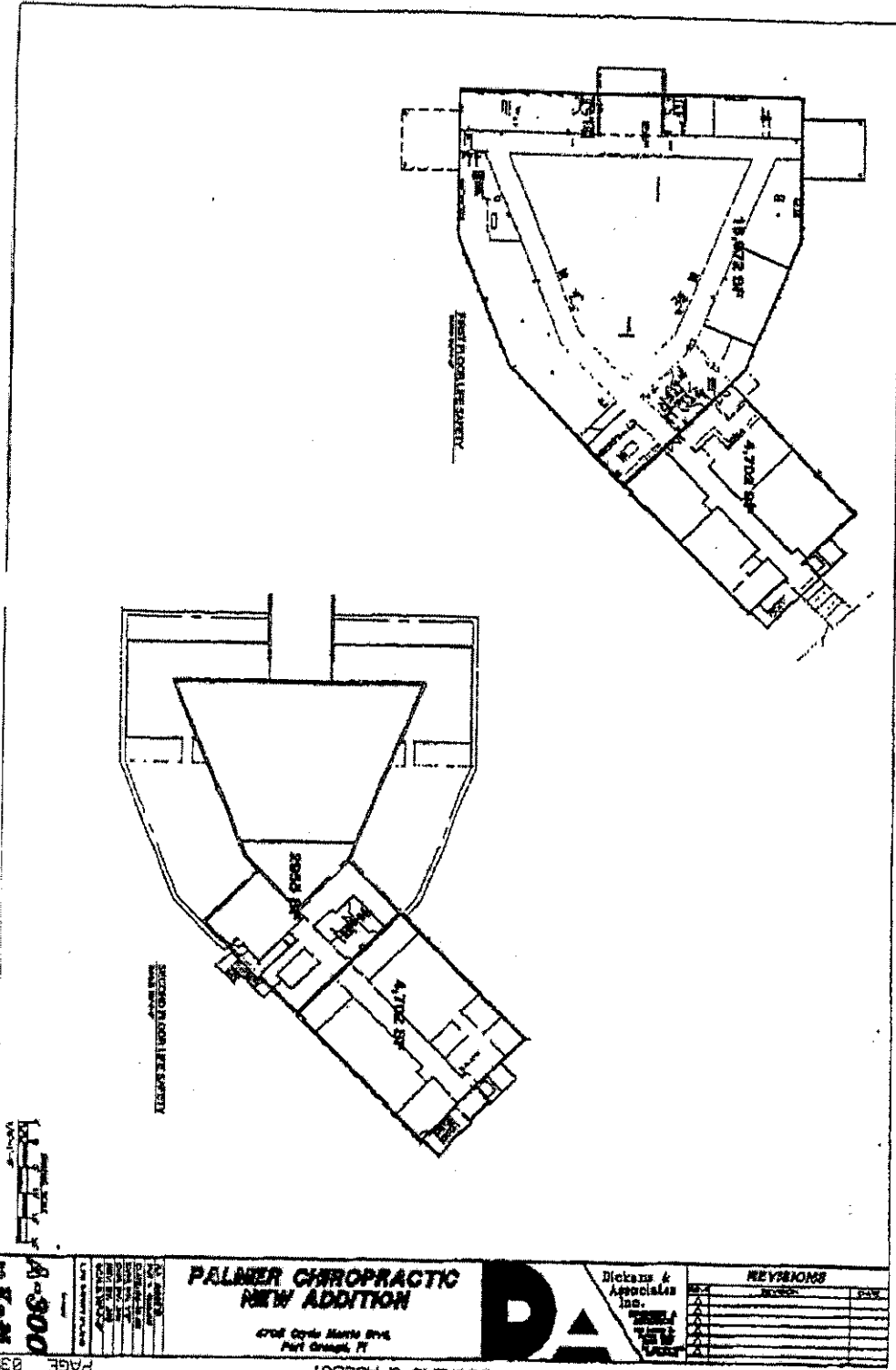
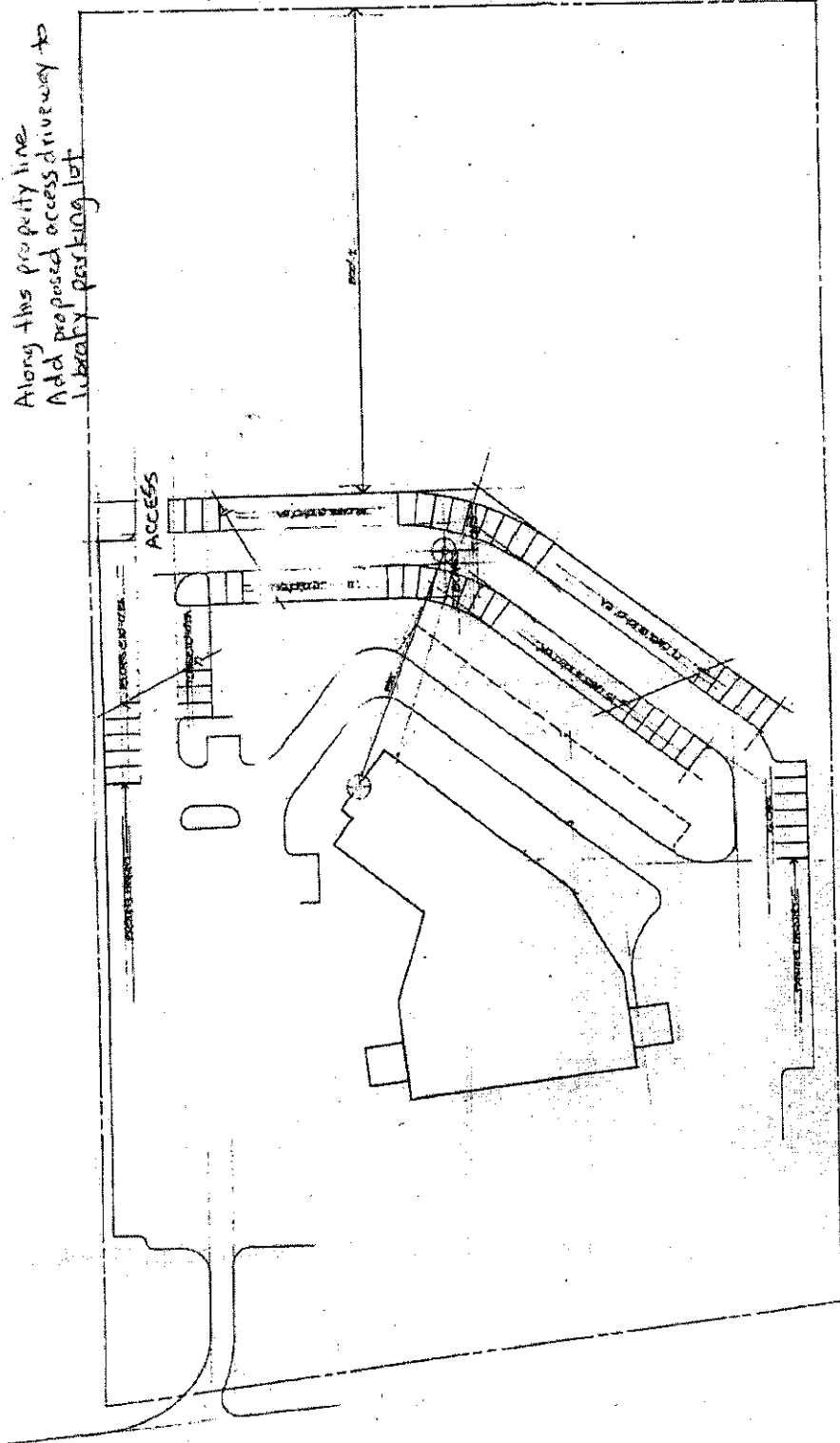


EXHIBIT "B"

(2)



SCALE 1/8" = 1'-0"  
DATE 10/1/07  
BY [Signature]  
CHECKED [Signature]  
PROJECT LIBRARY

**EXHIBIT "C"**



**Listing of City Property  
Purchased with the  
PORT ORANGE CHURCH OF THE NAZARENE**

SEPTEMBER 2, 1999

**Room/Area:**

**Pastor's Study:** Book shelves attached to wall stay at the Church. NOTE: All book shelves in the building that are attached stay with the building.

**Main Auditorium/Sanctuary:**

**1) Pews:** City has a one (1) year option on pew seating to retain or replace the seating with another seating arrangement. Should the City wish to purchase pew seating a mutually agreeable price will be negotiated. If no agreement is reached on the purchase of pews, the church may sell the pews or take seating when they vacate the building.

**2) Sound System (Includes the following):**

- ◊ Table in Sound Booth
  - ◊ All mounted speakers (10) with auxiliary control
    - (2) Foyer
    - (4) Sanctuary
    - (1) Nursery
    - (3) Fellowship Hall
  - ◊ Lights control panel mounted in Sound System Booth
  - ◊ Automatic Screen mounted in ceiling above platform and switch located in Sound System Booth.
  - ◊ Sound Board - 16 Inputs
  - ◊ Equalizer #1 Ross R-12SP
  - ◊ Stereo Amplifier (2)
  - ◊ Pyramid Amplifier PA-310
  - ◊ Digitec Programmable Equalizer
  - ◊ FXR Digital Multiple Effects Processor
  - ◊ Philips Magnavox Five Disk CD Player
  - ◊ TEAC Dual Track Tape Deck
  - ◊ TEAC Dual Track Tape Deck
  - ◊ (4) Handheld Microphones/Wireless
  - ◊ (2) Dual channel wireless microphone receivers
  - ◊ (2) PL68 Microphones with cords
  - ◊ (4) Samson microphones with cords, 2 - S2's, 2 - S1's
- Prescolite Series 7-12
- Peavy Unity Series 2000  
Serial #OA-04712920  
Serial #001984  
QSC-MX700's/Serial  
#089349627 & #089429681  
Serial #000705  
Model Mono 28/Serial  
#3855233  
Serial #423-050884843  
Serial #KG019817-  
10302282  
Model W-350/Serial  
#535954 93  
Model EW-750R/Serial  
#030261 02

**EXHIBIT "D"**

- ◊ (4) Microphone Stands with microphone holders
- ◊ One lapel Microphone/Wireless

Receiver for lapel wireless Microphone

- ◊ (9) Drop microphones
  - ◊ (7) White Crown
  - ◊ (2) Black
- ◊ (2) Monitors located on platform
- ◊ (2) Horizon monitors

Samson VT-1, Serial  
#12101254  
Samson VR-1, Serial  
#14101458

CM-30W  
A-T853A

Serial #9426308 &  
#9426309

3) Risers: (27) carpeted stage risers

4) Handicap Wheelchair Lift: This equipment stays in the auditorium

Kitchen

- Kenmore Refrigerator/Freezer (White)
- Maytag Dishwasher
- Two (2) Ovens/Microwaves - Kenmore
- GE - Hotpoint Built-In Stove

(4) rolls of carpet remnants.