



October 24, 2016

MEMORANDUM

TO: District Board of Trustees
FROM: Jim Murdaugh, President 
SUBJECT: Amended and Restated Bargain Sale Agreement

Item Description

Presented to the Board of Trustees is an Amended and Restated Bargain Sale Agreement between the partners of 3954 Pensacola Partnership, LLP and Tallahassee Community College and the Tallahassee Community College Foundation for the Advanced Manufacturing Training Center.

Overview and Background

This Bargain Sale Agreement is representative of a generous charitable contribution by the 3954 Pensacola Partnership, in honor of Kim B. Williams. This *Amended and Restated* Bargain Sale Agreement is necessary for the Foundation to fully recognize the contribution of the partnership.

Past Actions by the Board

On May 16, 2016, the Board of Trustees approved a Bargain Sale Agreement between the partners of 3954 Pensacola Partnership and Tallahassee Community College. This amended and restated Bargain Sale Agreement includes the TCC Foundation.

Funding/Financial Implications

None.

Staff Resource

Barbara Wills

Recommended Action

Request that the Board approve the Amended and Restated Bargain Sale Agreement.

AMENDED AND RESTATED
BARGAIN SALE AGREEMENT

THIS AMENDED AND RESTATED BARGAIN SALE AGREEMENT (“Agreement”) is made and executed as of the 17th day of May, 2016, by and between **The District Board of Trustees of Tallahassee Community College** (“TCC”), whose address is 444 Appleyard Drive, Tallahassee, Florida 32304, **Tallahassee Community College Foundation, Inc.** (the “Foundation”), whose address is 444 Appleyard Drive, Tallahassee, Florida 32304, and **Kim B. Williams, William E. Boyette and Kenneth A. Sweeney** (the “Partners”), whose address is 222 E. Pershing Street, Tallahassee, Florida 32301.

RECITALS:

1. The Partners are the owners of one hundred percent (100%) of the partnership interests (the “Partnership Interests”) in 3954 Pensacola Partnership, LLP, a Florida limited liability partnership (the “LLP”).

2. TCC and the LLP entered in that certain Lease Agreement dated September 30, 2009 (the “Lease”) whereby TCC agreed to lease to the LLP and the LLP agreed to lease from TCC the property located in Leon County, Florida and described in “**Exhibit A**” attached hereto (the “Property”). An Agreement and Memorandum of Lease relating to the Lease is recorded in Official Records Book 4093, Page 767, Public Records of Leon County, Florida.

3. The LLP and TCC entered in that certain Sublease Agreement dated September 30, 2009 (the “Sublease”) whereby the LLP agreed to sublease to TCC and TCC agreed to sublease from the LLP the Property.

4. The Partners desire to sell and transfer, and the Foundation desires to purchase and acquire, the Partnership Interests.

NOW, THEREFORE, in consideration of the hereinabove set forth premises, the hereinafter set forth terms and conditions and other good and valuable considerations, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Partners agree to sell and transfer and the Foundation agrees to purchase and acquire the Partnership Interests.
3. The closing (the “Closing”) of the sale and purchase of the Partnership Interests contemplated by this Agreement shall be held on May 18, 2016.
4. The Lease and Sublease are subject to the Mortgage and Security Agreement granted by the LLP to Hancock Bank dated March 17, 2010, and recorded in Official Records Book 4093, Page 2050, Public Records of Leon County, Florida, the Assignment of Rents and

Leases dated March 17, 2010, and recorded in Official Records Book 4093, Page 2062, Public Records of Leon County, Florida, and the Collateral Assignment of Lease, Rents and Profits, dated May 17, 2010, and recorded in Official Records Book 4093, Page 2066, Public Records of Leon County, Florida (collectively the "Hancock Mortgage"). The current balance of the Hancock Mortgage is \$1,015,696.34 which shall be the sale and purchase price for the Partnership Interests (the "Purchase Price"). TCC shall pay and satisfy the Hancock Mortgage at the Closing.

5. The parties acknowledge that the fair market value of the Partnership Interests exceeds the Purchase Price and that the Purchase Price is a bargain price for the Partnership Interests. The Partners agree to make a charitable contribution to the Foundation of the value difference between the fair market value of the Partnership Interests and the Purchase Price. Any valuation or appraisal required under the Internal Revenue Code or and rule or regulation of the Internal Revenue Service with respect to the donation by the Partners shall be made by an appraiser or other professional mutually agreed upon by the parties. The Foundation and TCC agree to provide any acknowledgements and other documentation reasonably required by the Partners in connection with the donation.

6. The Partners shall cause the LLP to distribute to the Partners all tangible and intangible personal property, including funds held in bank accounts and accounts receivable, prior to the Closing. The Partners shall further cause any and all payables and other liabilities owed by the LLP to be paid by the LLP prior to the Closing. The parties intend that, at the Closing, the LLP will own and hold no assets other than the Lease and the Sublease and the LLP will have no continuing liabilities or obligations other than the liabilities and obligations under the Lease and the Sublease.

7. The Partners shall indemnify and hold harmless the Foundation of and from any liability, cost or expense incurred or suffered by the Foundation as a result of any liability or obligation of the LLP other than the liabilities and obligations under the Lease and the Sublease. TCC shall indemnify and hold the Partners, and each of them, harmless of and from any liability, cost or expense incurred or suffered by the Partners, or any of them, as a result of any claim or cause of action arising under the Lease or the Sublease, subject to the provisions of §768.28, Florida Statutes.

8. This Agreement is contingent on:

A. The Board of Trustees of TCC approving this Agreement on or before May 16, 2016.

B. The Partners determining in their sole discretion that the bargain sale and transfer of the Partnership Interests will result in a charitable contribution to the Foundation which will entitle the Partners to a deduction from income taxes under the Internal Revenue Code in an amount not less than \$1,000,000.00.

9. This Agreement is intended by the parties to be an amendment and restatement of the Bargain Sale Agreement entered into by the parties on May 17, 2016, to reflect the parties'

intention that the sale and transfer, and charitable contribution, were intended to be in favor of the Foundation.

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

WITNESSES:

Print or type name.

**District Board of Trustees of
Tallahassee Community College**

By: _____
Name: _____
Its: _____

**Tallahassee Community College
Foundation, Inc.**

By: _____
Name: _____
Its: _____

Kim B. Williams

William E. Boyette

Print or type name.

Print or type name.

Kenneth A. Sweeney

Print or type name.

Print or type name.

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, as _____ of the District Board of Trustees of Tallahassee Community College, on behalf of the District Board of Trustees. He/She

- is personally known to me, or
- has produced _____ as identification.

Notary Public

Print or Type Name
My Commission Expires:

[SEAL]

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, as _____ of Tallahassee Community College Foundation, Inc., on behalf of the Foundation. He/She

- is personally known to me, or
- has produced _____ as identification.

Notary Public

Print or Type Name
My Commission Expires:

[SEAL]

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Kim B. Williams, who

- is personally known to me, or
- has produced _____ as identification.

Notary Public

Print or Type Name
My Commission Expires:

[SEAL]

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____,
2016, by William E. Boyette, who

- is personally known to me, or
- has produced _____ as identification.

Notary Public

Print or Type Name
My Commission Expires:

[SEAL]

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____,
2016, by Kenneth A. Sweeney, who

- is personally known to me, or
- has produced _____ as identification.

Notary Public

Print or Type Name
My Commission Expires:

[SEAL]

“EXHIBIT A”

Commence at a concrete monument marking the Southeast corner of Block "K" of Tallahassee Industrial Park, Tallahassee, Florida, said point also being the intersection of the Westerly right of way boundary of Appleyard Drive and the Northerly right of way boundary of Pensacola Street, and run thence in a Southwesterly direction along the said boundary of Pensacola Street and on a curve to the left with a radius of 2,197.84 feet, an arc distance of 492.71 feet to the end of curve, thence run South 64 degrees 28 minutes 22 seconds West 1,169.51 feet along said right of way boundary to a concrete monument, said monument being the POINT OF BEGINNING, thence continue South 64 degrees 28 minutes 22 seconds West along said right of way 200 feet, thence North 25 degrees 31 minutes 38 seconds West 318.30 feet, thence North 64 degrees 28 minutes 22 seconds East 200.0 feet, thence South 25 degrees 31 minutes 38 seconds East 318.30 feet to the POINT OF BEGINNING, and being a portion of and situate in Section 33, Township 1 North, Range 1 West, Leon County, Florida.