

AGENDA RESERVATION REQUEST

CITY OF FRANKLIN BOARD OF PUBLIC WORKS AND SAFETY

Please type or print

Date Submitted:	June 7, 2012	Meeting Date:	June 18 th , 2012
Contact Information:			
Requested by:	Lynn Gray, City Attorney		
On Behalf of Organization or Individual: City of Franklin			
Telephone:	(317) 738-3365		
Email address:	lynng@embarqmail.com		
Mailing Address:	63 East Court Street, Franklin, IN 46131		
Describe Request:			
Request approval of the Lease Agreement between the City of Franklin and Franklin College of Indiana, Inc.			
List Supporting Documentation Provided:			
Lease Agreement			
Who will present the request?			
Name:	Lynn Gray, City Attorney	Telephone:	(317) 738-3365

The Franklin Board of Works meets on the 1st and 3rd Monday of each month at 5:15 p.m. in the Council Chambers of City Hall located at 70 E. Monroe Street. In order for an individual and/or agency to be considered for new business on the agenda, this reservation form and supporting documents must be received in the Mayor's office no later than 12:00 p.m. on the Wednesday prior to the Board of Works meeting.

LEASE AGREEMENT

This Lease Agreement (the “**Lease**”) is entered into as of _____, 2012 (the “**Effective Date**”), by and between the **City of Franklin, Indiana**, a political subdivision duly organized and validly existing under the laws of the State of Indiana (the “**Landlord**”) and the **Franklin College of Indiana, Inc.**, a not for profit organization duly organized and validly existing under the laws of the State of Indiana (the “**Tenant**”) on the following terms and conditions:

I. DEFINED TERMS & EXHIBITS

For purposes of this Lease, the following terms shall have the meanings ascribed to them:

- 1.1 Premises: Landlord leases a portion of its building, located at 70 East Monroe, Franklin Indiana, (“Building”) that is described (former Clementine’s Dry Goods”) on the attached Exhibit “A”, which said leased premises is herein referred to as Premises. Said Premises has an address of 66 South Water Street, Franklin, Indiana.
- 1.2 Casualty Loss: Any damage, destruction or loss by fire or other cause to all or any portion of the Premises, the Building or the other improvements located thereon or property located therein.
- 1.3 Commencement Date: June _____, 2012.
- 1.4 Environmental Laws: All present and future federal, state and municipal laws, ordinances, rules and regulations applicable to human health or the environment and all rules and regulations of the Federal Environmental Protection Agency, or any other federal, state or municipal agency or governmental board or entity having jurisdiction over the Premises.
- 1.5 Expiration Date: The earlier of the date required for Tenant’s relinquishment of possession of the Premises in accordance with the terms of this Lease or May 31, 2022.
- 1.6 Hazardous Substances: Those substances included within the definitions of “hazardous substances”, “hazardous materials”, “toxic substances”, “solid waste”, or “infectious waste” in any of the Environmental Law.
- 1.7 Landlord’s Notice Address: Franklin City Hall, 70 E. Monroe, Franklin, Indiana 46131.

- 1.8 Real Estate Taxes: General ad valorem real estate taxes levied against the Premises, if any, by the appropriate governmental authorities, the last day for payment of which (without penalty, delinquency charges or other addition to the amount thereof) falls within the Term after the date of Termination and actually paid by Landlord, as distinguished from special or other assessments or taxes in the nature of improvement or betterment taxes, and excluding, without limitation, any income, franchise, gross receipts, corporation, capital levy, excess profits, revenue, rent, inheritance, devolution, gift, estate, payroll or stamp tax by whatsoever authority imposed or howsoever designated or any tax upon the sale, transfer or assignment of Landlord's title or estate which at any time may be assessed against or become a lien upon all or any part of the Premises.
- 1.9 Restoration: The repair and restoring in accordance with all applicable laws, codes, rules and regulations, of any portion of the Premises which suffered a Casualty Loss or a Taking to substantially the same condition as existed immediately prior to the Casualty Loss or Taking.
- 1.10 Taking: Any permanent taking for any public or quasi-public use by any lawful power or authority by exercise of the right of condemnation or of eminent domain or by agreement between Landlord and Tenant and those having the authority to exercise such right.
- 1.11 Term: The period from and after the Commencement Date to the Expiration Date.
- 1.12 Termination: Any termination, expiration or cancellation of the Lease.
- 1.13 Tenant's Notice Address: Office of the President, 101 Branigin Boulevard, _____, Franklin, Indiana 46131.
- 1.14 Utility Services: Those services provided to the Building by utility companies or local governmental agencies.

II. DEFINED TERMS & EXHIBITS

- 2.1 Demise: Upon the terms, covenants and conditions set forth in this Lease, Landlord does hereby grant, demise and lease unto Tenant the Premises. Landlord makes no warranties with respect to the Premises, and Tenant hereby accepts the Premises "as-is and where-is".
- 2.2 Build Out: Tenant will be responsible for all costs, expenses and obligations including necessary permit fees to improve the Premises in a manner suitable for its use as referenced in paragraph 2.6. All equipment and supplies purchased by the Tenant will remain the sole and separate property of the Tenant. All capital investments and improvements, such as flooring, walls or

other fixtures shall, at the conclusion of the Lease, remain the property of the Landlord.

- 2.3 Entry Way Access: The parties agree that Tenant shall have entry way access to the Leased Premises through the 66 South Water Street entrance. The parties agree that Tenant shall have reasonable access to the Leased Premises through the City Hall lobby only during normal City Hall business hours (Monday – Friday/8:00 A.M. to 4:00 P.M.) and not on weekends or observed holidays. The parties agree that Landlord shall have the right to limit the City Hall lobby access should it become necessary for safety purposes, security reasons or to prohibit interference with City business operations with 60 days notice to the Tenant.
- 2.4 Rent: During the Term, rental for the Premises shall be One and 00/100 Dollar (\$1.00) per year.
- 2.5 Use: Tenant shall occupy and use the Premises for operation of an art gallery/coffee bar/visitor's center as a retail business and related purposes. It is expressly understood that Tenant is leasing the Premises for these purposes and agrees not to conduct activities not related to, or consistent with, this purpose without the specific written consent of the Landlord with said consent not unreasonably withheld.

III. UTILITIES

- 3.1 Utility Services: Tenant agrees that it shall be responsible for any and all utility expenses associated with its use of the Premises and Tenant agrees that it shall be diligent and use its best efforts to conserve and minimize the utility expenses and prohibit waste in the use of the Premises. Landlord agrees to be diligent and to use its' best efforts restore any services which it is obligated to provide under the terms of this Lease in the event of any failures, stoppages, or interruptions but Landlord shall not be held responsible for any damages arising from the temporary loss of said utility services, unless such failures, stoppages, or interruptions are the due to the negligent acts of the Landlord . Tenant agrees that it shall timely pay all utilities and assessments on said property Premises when due and shall keep said Premises in a clean and orderly condition and shall conduct its business therefrom in a careful and safe manner. Additionally, Tenant shall be responsible for routine maintenance within its leased space. Tenant shall pay all charges for utility service based upon actual usage by Tenant in the Premises during the Term. Landlord shall provide free wireless access to the Premises The parties agree that they will use all good faith efforts to have the utilities separately metered so that Tenant and Landlord shall each be responsible for their own actual usage provided however, if said meters are not separated within a reasonable time, the parties agree to modify this lease provision to allocate the utility expense based on each parties usage.

IV. LIENS

- 4.1 Payment: Landlord, prior to delinquency, shall pay any and all liens, obligations or encumbrances created by Landlord, its employees or agents, which are a lien against all or any part of the Premises. Tenant, prior to delinquency, shall pay any and all liens, obligations or encumbrances created by Tenant, its employees or agents, which are a lien against all or any part of the Premises.
- 4.2 Lien(s): Tenant shall not suffer or permit any lien or encumbrance whatsoever to exist upon the Premises or any of Tenant's right, title or interest in this Lease by reason of any act (whether of commission or omission) of Tenant or any of its' agents, employees or invitees and shall remove any such liens within thirty (30) days after written notice thereof from Landlord. Landlord shall not suffer or permit any lien or encumbrance upon the Premises which may affect the Tenant's use of the Premises without Tenant's prior written consent.
- 4.3 Mechanic's Lien(s): Tenant shall not permit any Statement of Intention to hold a Mechanic's Lien to be filed against the Premises or any part thereof nor against any interest or estate therein by reason of labor, services or materials claimed to have been performed or furnished to or for Tenant. If such Statement of Intention to hold a Mechanic's Lien shall be filed, Landlord at its option may compel the prosecution of an action for the foreclosure of such Mechanic's Lien by the lienor. If any such Statement of Intention to hold a Mechanic's Lien shall be filed and an action commenced to foreclose the lien, Tenant, upon demand by Landlord, shall cause the lien to be released by the filing of a written undertaking with a surety approved by the Court and obtaining an order from the Court releasing the Premises from such lien. Nothing in this Lease shall be deemed or construed to constitute consent to or request to any party for the performance of any labor or services or the furnishing of any materials for the improvement, alteration or repairing of the Leased Premises.

V. MAINTENANCE, REPAIRS & SUPPLIES

- 5.1 Landlord shall, at its sole cost and expense, provide all repairs, maintenance and replacements required to keep and maintain the major structural portion of the Building , including, without limitation, the roof, sub-floor and structural components, doors, windows, locks and mechanical, including heating, air-conditioning and ventilating equipment, plumbing, major electrical, major sewer services and service elements serving the Premises, in a good condition and in compliance with all governmental laws, rules and regulations except to the extent that the acts or neglect of Lessees, its employees or invitees necessitates such repairs. Tenant shall make all other

repairs not required to be made by Landlord to maintain the Premises in the same condition they are now.

- 5.2 Tenant agrees that it shall be solely responsible for and shall maintain in good working order, minor electrical under \$1,500.00 and minor plumbing under \$1,500.00, all light bulbs, trash removal, cleaning, and maintenance of the Leased Space for the safety of the third parties using the space. The Tenant shall be responsible for telephones, internet access, consumables such as cleaning supplies, paper products and ordinary and customary supplies.
- 5.3 Notwithstanding the foregoing, Landlord shall not be required to make any repairs to the Premises made necessary as a result of the acts (other than normal use) of Tenant (or its employees or invitees), except when such damage is covered by warranty or insurance and then only to the extent of the proceeds of such warranty or insurance. Tenant shall be responsible for all such damage caused by Tenant and not covered under warranty or by insurance. In addition, Tenant shall at its own cost and expense replace any cracked or broken glass, including plate glass, and any glass in the interior and exterior windows and doors of the Premises, provided Landlord will replace any glass that is cracked or broken by settling of the Building or Landlord's acts.

VI. LIABILITY FOR DAMAGES

- 6.1 The City of Franklin, its officers, agents or employees, shall not be in any manner answerable or responsible for any loss or damage caused by the occupancy or use of the Premises by Tenant, including but not limited to any damages to material, vehicles, equipment or other property during occupancy of the Premises; for any injury done to person or property or damages or compensation required to be paid under any present or future loss; or for any damage to any property occurring during or resulting from the Tenant's use of the Premises. The City of Franklin assumes no responsibility for collecting indemnities or damages from any person or persons causing the injury as a result of Tenant's occupancy of the Premises.
- 6.2 Tenant agrees that it shall take all necessary precautions for the safety of, and prevention of injury, loss and damage or death to, persons or property on, about or within the Premises which is the subject of this Lease agreement and shall comply with all applicable provisions of safety laws, rules, ordinances, regulations and orders of duly constituted public authorities.
- 6.3 Tenant agrees to release the City of Franklin from any and all liability for any loss of or damage or injury to person or property occurring in, on or about, the Building or Premises, or personal property within the Building or the Premises by reason of fire or other casualty, due to the negligent acts of the Landlord. To the fullest extent permitted by law, the Tenant shall indemnify

and hold harmless the City of Franklin, its' agents, employees and representatives from and against all claims, damages, losses and expenses, including, but not limited, attorneys' fees arising out of or resulting from the occupancy of the Premises, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce the rights or obligations of indemnities which would otherwise exist as to a party or person describing this paragraph.

VII. FIXTURES, EQUIPMENT & SIGNS

- 7.1 Fixtures & Equipment: Tenant shall have the right, at any time and at its expense, to install and use, or caused to be installed and used in, upon, under and about the Premises, such trade fixtures, shelving computers, furnishings, and other personal property as described in the Build Out section 2.2 (collectively, "**Personal Property**") as Tenant deems necessary for or appropriate to the conduct of business, provided the installation and use thereof is in compliance with all applicable ordinances, laws, rules and regulations. Notwithstanding the manner of their attachment, all Personal Property shall be deemed and remain the property of Tenant, and Landlord shall not permit or attempt to pledge, mortgage or otherwise encumber in any manner, all or any part of the same. Unless Tenant has otherwise agreed to transfer any of the Personal Property to Landlord by way of a separate bill of sale, Tenant shall have the right to remove its Personal Property at any time prior to Termination so long as Tenant causes any damage to the Premises caused by the installation or removal of the Property to be repaired at its sole cost and expense prior to the Termination.

VIII. ENVIRONMENTAL COMPLIANCE

- 8.1 Compliance: Tenant, at its sole cost and expense, shall promptly comply with the Environmental Laws, including any notice from any insurance company or other source issued pursuant to the Environmental Laws which shall impose any duty upon Tenant with respect to the use, occupancy, maintenance or alteration of the Premises whether such notice shall be served upon Landlord or Tenant.
- 8.2 Restrictions on Tenant: Tenant shall operate its business and maintain the Premises in compliance with all Environmental Laws. Tenant shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under, or about the Premises, or the transportation to or from the Premises of any Hazardous Substances during the Term; except janitorial supplies and office supplies stored and used in the ordinary course of Tenant's business and in compliance with all applicable Environmental Laws

- 8.3 Notices and Affidavits: Tenant shall immediately notify Landlord of (i) any violation by Tenant, its employees, agents, representatives, customers, invitees or contractors of the Environmental Laws on, under or about the Premises, or (ii) the presence or suspected presence of any Hazardous Substances on, under or about the Premises and shall immediately deliver to Landlord any notice received by Tenant relating to (i) and (ii) above from any source.
- 8.4 Tenant's Indemnification. To the extent permitted by law, Tenant shall indemnify and hold harmless Landlord from any and all claims, loss, liability, costs, expenses or damage, including attorneys' fees and costs of testing and remediation costs, incurred by Landlord in connection with any breach by Tenant of its obligations under this **Article VIII**. The covenants and obligations of Tenant under this **Article VIII** shall survive the Termination of this Lease.

IX. USE & ENJOYMENT; SUBLETTING & ASSIGNMENT

- 9.1 Permitted Uses: Tenant may use the Premises for operation of its art gallery/coffee bar/visitors center as a retail business and related services and for no other use unless agreed upon in writing by the parties.
- 9.2 Manner of Use: Tenant shall use and occupy the Premises in a careful, safe and proper manner, will comply with all applicable laws and ordinances respecting the use and occupancy thereof. Tenant shall not cause or permit the Premises to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation or order.
- 9.3 Subletting and Assignment: Tenant shall not assign this Lease or sublet or license the use of all or any part of the Premises without the prior written consent of Landlord which consent may be withheld in Landlord's sole and absolute discretion. Any assignment, subletting or licensing by Tenant pursuant to this Section 10.3 shall not release Tenant of any of its obligations under this Lease.
- 9.4 Quiet Enjoyment: Landlord represents, warrants and covenants that: (i) Landlord is duly authorized and empowered to execute and perform this Lease and to grant the estate described herein for the Term; and (ii) subject to the terms hereof, Tenant shall have quiet and peaceable possession, use and enjoyment of the Premises, with all rights, easements, appurtenances and privileges appertaining thereto, during the Term.
- 9.5 Estoppel Certificates: Within fifteen (15) days after request by either party, Landlord or Tenant, as the case may be, shall provide a statement to the requesting party acknowledging whether the Lease is in full force and effect without modification and whether any uncured default exists, as well as

providing to the requesting party any other information normally disclosed in an estoppel certificate.

X. EMINENT DOMAIN

- 10.1 Condemnation : In the event of a Taking of any part of the Building or Premises, this Lease shall terminate as of the date possession thereof is relinquished to the condemning authority. In the event of a Taking of any portion of the Building or Premises, all monies payable in connection therewith shall belong to the Landlord except those monies directly attributable to any damages suffered by the Tenant.

XI. INSURANCE

- 11.1 Tenant's Insurance: Tenant, at its sole cost and expense, shall maintain at all times during the Term of this Lease a broad form comprehensive general liability or commercial general liability policy covering property damage, personal injury and bodily injury and covering the Premises in an amount not less than \$1,000,000 per occurrence. Additionally, the Tenant agrees to maintain a worker's compensation policy with limits no less than the minimum State statutory limits and requirements. All policies shall be endorsed to name Landlord as an additional insured and the general liability policy shall contain a specific statement or endorsement on the certificate as follows: THIS POLICY IS PRIMARY AND NON-CONTRIBUTORY. Additionally, all policies and insurance certificates are to contain the following statement: "It is hereby agreed that the City of Franklin will be notified thirty (30) days prior to cancellation of, expiration of, material alteration and/or election not to renew any insurance policy, which coverage is evidenced by this certificate." All insurance shall be maintained in full force and effect until the Lease has been fully completed and performed and the Tenant agrees that likewise any contractor, sub-contractor or any other party performing services pursuant to section 7.1 upon the Premises, with the approval of the Tenant shall also have said insurance coverage in full force and effect. Nothing in this provision is intended to be construed as permission to sub-lease or otherwise authorize others to the use and occupancy of the Premises. Tenant shall be responsible for securing and paying for Renter's Insurance.
- 11.2 Waiver of Subrogation: Notwithstanding any indemnity or provision of this Lease, Landlord and Tenant each waive any right to recover against the other for (a) damage to property or death or injury to persons; (b) damages to all or any portion of either or both of the Premises and the Personal Property; (c) claims arising by reason of the foregoing; to the extent such damages and claims are insured against, or required to be

insured against, by Landlord or Tenant under this lease. This provision is intended to waive, fully and for the benefit of each party, any rights and/or claims which might give rise to a right of subrogation by any insurance carrier. The coverage obtained by each party shall include, without limitation, a waiver of subrogation by the carrier which conforms to the provisions of this Section.

XII. CASUALTY LOSS

- 12.1 Period to Restore: In the event of any material Casualty Loss which affects the use or occupancy of the Premises, either Landlord or Tenant may terminate this Lease as of the date of the Casualty Loss by written notice to the other party within thirty (30) days after the date of the Casualty. If neither party terminates the Lease, Landlord shall restore the Building and Premises to a condition similar to the condition existing prior to such Casualty.

XIII. INDEMNITY

- 13.1 Tenant's General Indemnity: To the fullest extent permitted by law, Tenant shall indemnify, defend (at their sole expense) and hold harmless the Landlord and their employees ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and costs, and consultants' fees and costs) ("Claims") which arise or are in any way connected with Tenant's leasing of the Premises, materials furnished, or Services provided under this Lease. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of the Tenant, its employees or agents, whether active or passive. The Tenant's indemnification and defense obligations hereunder shall extend to claims occurring after this Lease is terminated as well as while it is in force, and shall continue until it is finally adjudicated.
- 13.2 Landlord's General Indemnity: To the fullest extent permitted by law, Landlord shall indemnify, defend (at their sole expense) and hold harmless the Tenant and their employees ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and costs, and consultants' fees and costs) ("Claims") which arise or are in any way connected with that portion of the Building not leased to the Tenant. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of the Landlord, its employees

or agents, whether active or passive. The Landlord's indemnification and defense obligations hereunder shall extend to claims occurring after this Lease is terminated as well as while it is in force, and shall continue until it is finally adjudicated.

XIV. NOTICES

- 14.1 Manner of Giving: All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of delivery if delivered in person or the following business day after being sent by overnight delivery by a nationally recognized overnight delivery service such as UPS or Federal Express, addressed to Landlord as set forth in Section 1.7, addressed to Tenant as set forth in Section 1.14, or to such other address as shall be furnished in writing by either party to the other.

XV. REMEDIES

- 15.1 Landlord's Default: If any default by Landlord shall occur under this Lease and shall continue uncorrected for thirty (30) days after written notice thereof from Tenant specifying in reasonable detail the nature of such default, Tenant may, by giving written notice to Landlord at any time thereafter during the continuance of such default: (a) terminate this Lease and recover damages; or (b) exercise any rights available to Tenant at law or in equity; provided, however, that in the event of any default which cannot be cured by Landlord within such thirty (30) day period, Landlord shall not be deemed to be in default if Landlord, in good faith, shall have commenced action to cure such default promptly upon receipt of Tenant's notice and shall be diligently pursuing the same.
- 15.2 Tenant's Default: If any default of Tenant shall occur under this Lease and shall continue uncorrected for thirty (30) days after receipt of written notice thereof from Landlord specifying in reasonable detail the nature of such default, Landlord may, by giving written notice to Tenant at any time thereafter during the continuance of such default: (a) terminate this Lease; or (b) exercise any remedy available at law or in equity; provided, however, that in the event of a breach of any covenant in this Lease by Tenant which cannot be cured within the applicable cure period set forth above, Tenant shall not be deemed to be in default if Tenant, in good faith, shall have commenced action to cure such default within the applicable cure period and shall be diligently pursuing the same.
- 15.3 Advances: In addition to the foregoing, if either party fails to cure any default by it of its obligations hereunder within the applicable cure period therefor, the other party shall have the right, but not the duty, to cure such default for the account and at the expense of the defaulting party. All expenses incurred by either party in curing such a default for the account of the other party shall be reimbursed by the defaulting party on the first day of the month following the payment of such expenses. Any amounts

not so paid shall bear interest at the rate of eight percent (8%) per annum, from the date of such advance until paid in full.

XVI. TERMINATION

- 16.1 Surrender in Good Condition: Upon Termination, Tenant shall surrender the Premises in good condition and repair, reasonable wear and tear and loss or damage by Casualty Loss, Taking and acts of God excepted.
- 16.2 Holding Over: If Tenant remains in possession of the Premises after the Term without executing a new Lease or an extension of this Lease, Tenant shall be deemed to be occupying the Premises as a month to month tenancy.

XVII. REAL ESTATE TAXES

- 17.1 Payment: Tenant shall be responsible for the payment of any Real Estate taxes which become due and payable during the Term to the extent any such taxes exist and as related solely to Tenant's Premises or Tenant's use and occupancy of the Premises.

XVIII. GENERAL PROVISIONS

Except as otherwise expressly provided for herein, the following general provisions shall apply to this Lease:

- 18.1 Effective: The submission of this Lease for examination does not constitute an offer to lease, and this Lease shall become effective only after execution by Tenant and Landlord and their duly authorized officials. This Lease shall not be recorded.
- 18.2 Construction of Terms: The headings of the several articles and sections contained herein are for convenience of reference only, and do not define, limit or construe the contents of such articles or sections or describe the intentions of either party with respect to the scope or interpretation thereof. Whenever the singular or plural number, or masculine, feminine or neuter gender, is used herein, it shall include the other, and the terms and provisions of this Lease shall be construed accordingly. The locative adverbs "herein", "hereunder", "hereto", "hereby", "hereinafter", "hereinbefore", and like words wherever they appear in this Lease, mean and refer to this Lease in its entirety and not to any specific article, section or subsection of this Lease, unless the context expressly provides otherwise. Nothing contained herein shall be deemed or construed to

create any relationship between the parties hereto other than that of landlord and tenant.

- 18.3 Governing; Laws: The laws of the State of Indiana shall govern the validity, performance and enforcement of this Lease. If any term, covenant or condition of this Lease, or the application thereof to any person or circumstance, shall, to any extent, be held invalid or unenforceable by any court having jurisdiction, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Lease shall be valid and enforceable to the fullest extent permitted by law.
- 18.4 Payment of Costs. Whenever this Lease requires a party to perform an act, unless expressly provided to the contrary, all costs and expenses in connection therewith shall be paid by the party required to perform such act including reasonable attorney fees.
- 18.5 Force Majeure: Time is of the essence; provided, however, if either party hereto shall be delayed or prevented from the performance of any act required of it under this Lease (other than the payment of a liquidated sum of money) by reason of strikes or other labor troubles, unavailability of materials, weather, failure of power, riots, insurrection, war or other similar reasons beyond the control of the party whose performance is delayed or prevented, then performance of any such act shall be excused for the period of such delay and shall be extended by a period of time equivalent to the period of such delay.
- 18.6 Consents and Approvals: Except where the terms hereof require the consent to or approval of either party of an act by the other party, such consent shall not be denied, withheld, conditioned or delayed unreasonably, capriciously or for the purpose of extracting concessions regarding other covenants or subject matters, and any such consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act.
- 18.7 Remedies Cumulative, Non-Waiver: The various rights and remedies of each of the parties pursuant to the Lease shall not be considered as exclusive of any other right or remedy of such party under this Lease or otherwise, but shall be construed as cumulative and in addition to every other remedy now or hereafter existing at law, in equity or by statute, and any of such rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefor arises. No delay or failure of either party to exercise any right or power hereunder or to insist on strict compliance with the terms and conditions hereof shall impair any such right or power, or shall constitute, or be construed as, a waiver of any terms and conditions hereof, or any default thereof or as

acquiescence thereto nor a waiver of the right at any time thereafter to insist on strict compliance with the terms and conditions hereof. One or more waivers of any covenant, term or condition of this Lease by either party shall not constitute nor be construed by the other party as a waiver of a subsequent or continuing breach of the same covenant, term or condition.

- 18.8 No Presumption: This Lease shall be interpreted and construed only by the contents hereof, and there shall be no presumption or standard of construction in favor of or against either party.
- 18.9 Agreement Binding on Successors: The terms, conditions, covenants and provisions hereinabove set forth shall inure to the benefit of the respective legal representatives, successors and assigns of the parties hereto, but shall create no rights in any other person except as may be specifically provided for herein.
- 18.10 Agreement: This Lease and the terms herein contain the entire agreement between the parties with respect to the Premises and supersedes any and all other negotiations, considerations, understandings, agreements and representations, whether oral or written, relating to the subject matter hereof. This Lease may be modified or amended only by an agreement in writing signed by the party to be bound.
- 18.11 Subordination: This Lease shall be subordinate to any mortgage now or hereafter placed on the Premises and to all renewals, modifications, consolidations, replacements, and extensions thereof, provided that the consideration for such subordination shall be, whether so stated or not, that Tenant's use and possession of the Premises and Tenant's rights under this Lease shall not be disturbed so long as Tenant is not in default hereunder. Upon foreclosure of any such mortgage, Tenant shall attorn to any purchaser. Tenant agrees to execute any documents required to effectuate such subordination. Landlord agrees to obtain express non-disturbance agreements from any such mortgagee.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by its duly authorized representative on this _____ day of _____, 2012.

CITY OF FRANKLIN

By: _____

PRINTED: JOSEPH E. MCGUINNESS

TITLE: MAYOR

ATTEST:

By: _____

FRANKLIN COLLEGE OF INDIANA, INC.

BY: Bryan Spetter

PRINTED: BRYAN SPETTER

TITLE: VICE-PRESIDENT

ATTEST:

By: _____

K1
OF 1

SHEET NUMBER

JOB NO. 202504



FRANKLIN COLLEGE
COFFEE SHOP

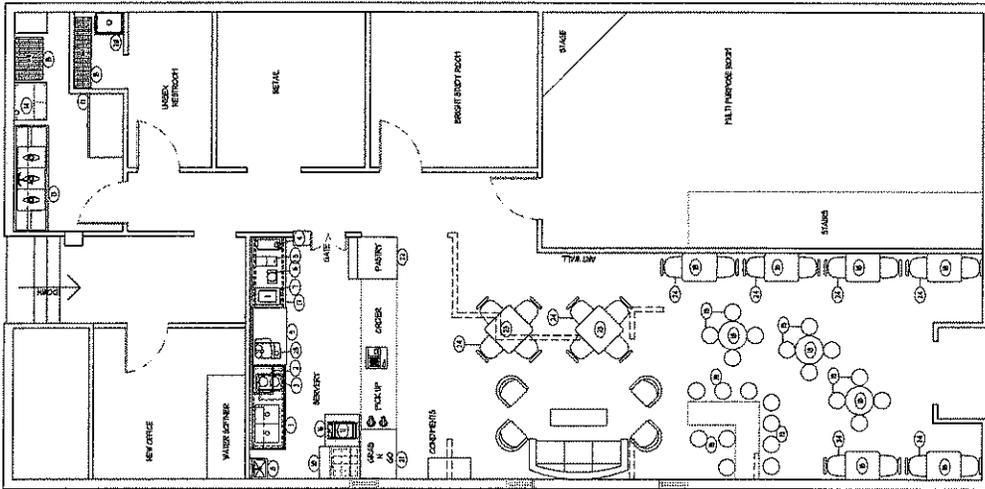
PROJECT MANAGER
E-mail: ed@franklin.edu
City: Read
Client: www.franklin.edu

C & T DESIGN & EQUIPMENT CO., INC.
DESIGN & SALES TO ALL TYPES OF FOOD SERVICE OPERATIONS
PHONE: 317-842-9402
2750 TONKAY DR. INDIANAPOLIS, INDIANA 46218
SCALE: 1/4" = 1'-0"

DATE: 4/9/2010
DESIGN: DGM
REVISIONS: 400/003

CONTRACTOR: [REDACTED]
OWNER: [REDACTED]
PROJECT: [REDACTED]

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ITEM NO.	QTY.	DESCRIPTION
1	1	PROP. SINK/TABLE
2	1	PROP. SINK/TABLE
3	1	PROP. SINK/TABLE
4	1	PROP. SINK/TABLE
5	1	PROP. SINK/TABLE
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26	1	PROP. SINK/TABLE
27	1	PROP. SINK/TABLE
28	1	PROP. SINK/TABLE
29	1	PROP. SINK/TABLE
30	1	PROP. SINK/TABLE
31	1	PROP. SINK/TABLE
32	1	PROP. SINK/TABLE

EXISTING WALLS
TO BE REMOVED



EQUIPMENT PLAN
SCALE: 1/4" = 1'-0"

EXHIBIT "A"