

COUNTY OF BALDWIN)

STATE OF ALABAMA)

LEASE

This Lease, made as of the 8th day of October, 2014 (the "Effective Date"), by and between the City of Foley, Alabama ("Lessor"), a municipal corporation of the State of Alabama, and Performing Arts Association, an Alabama non-profit corporation, d/b/a Foley Art Center ("Lessee").

WITNESSETH:

1. **PREMISES:** In consideration of the rents, covenants and agreements hereinafter set forth, and in consideration of Lessee operating an art center in Foley, Alabama which will serve the public interest and a public purpose by providing an opportunity to engage in programs promoting social, cultural, emotional and intellectual growth and enhancement of the community, Lessor does hereby demise and lease to Lessee, and Lessee does hereby take and hire from Lessor, that certain real property situated in the City of Foley, Baldwin County, Alabama, and any and all improvements which now are or which shall be situated on said real property (the "Real Property") together with all rights, easements and appurtenances thereunto belonging or appertaining (collectively referred to herein as the "Premises"), said Premises being located at 211 N. McKenzie Street, Foley, Alabama 36535.

This Lease is premised on the condition that Lessee shall use the Premises for the purpose of maintaining and operating an art center including art classes (visual and performing arts), photography, display and sale of original local art and sale of art supplies on the Premises in compliance with the terms of this Agreement. Lessee shall use the Premises for no other purpose without the prior written consent of the Lessor which may be withheld in the sole discretion of the Lessor due to the fact that part of the consideration of this Lease to Lessor is the public purpose that will be served by the center being located, operated and maintained on the Premises.

2. **TERM:** The term of this Agreement shall be for one (1) year commencing on the Effective Date. The term shall automatically renew for additional one (1) year periods unless Lessor or Lessee provide at least sixty (60) days prior written notice of nonrenewal prior to the expiration of the initial term or any renewal term.

3. **ASSIGNMENT AND SUBLETTING.** Lessee may not assign or transfer this Lease, and Lessee may not sublet the Premises or any portion thereof, without the prior written consent of Lessor, which consent may be withheld in the sole discretion of Lessor.

4. **RENTAL:** In addition to providing a public service and public purpose by operating and maintaining a performing arts center on the Premises, and in addition to the other commitments and obligations of Lessee contained herein, Lessee shall pay an annual rent of TEN DOLLARS (\$10.00) to Lessor at Foley City Hall, 407 East Laurel Avenue, Foley, AL 36535, or to such other place or places as Lessor may from time to time designate in writing. The first year's rent shall be due on the Effective Date of this Lease, and thereafter Lessee shall pay annual rent in advance on each anniversary of the Effective Date of this Lease.

5. **OPERATING STATEMENTS.** Within ten (10) days after the end of each month, Lessee shall provide Lessor with a monthly statement of all income and expenses relating to the Premises in a form

acceptable to Lessor.

6. TAXES AND ASSESSMENTS: Lessor shall pay, satisfy and discharge as the same become due and payable, all ad valorem taxes levied or imposed upon or against the Premises. Lessee shall be responsible of all taxes associated with Lessee's personal property or which specifically related to Lessee's use of the Premises.

7. INSURANCE: Lessor will maintain such property insurance against casualty to the Premises as it desires. Lessee hereby covenants and agrees at all times during the term of this Lease to maintain and keep in force: (a) comprehensive general liability insurance, including broad form contractual liability, on an "occurrence" based policy against all claims for personal injury or death with minimum limits of liability of Five Hundred Thousand Dollars (\$500,000); (b) commercial property insurance with extended all risks coverage covering Lessee's personal property including all fixtures, furnishings, equipment and leasehold improvements in the Premises; (c) worker's compensation insurance; and (d) such other and additional insurance as the Lessor may reasonably require in connection with the Premises and operations of Lessee thereon. All policies of insurance which Lessee is obligated to maintain according to this Lease (other than any policy of worker's compensation insurance) will name Lessor as additional insured or loss payee, as applicable. Prior to any use or occupancy of the Premises by Lessee, and annually thereafter on the anniversary date of the commencement of this Lease, Lessee shall furnish Lessor with a certificate(s) of insurance (and policy endorsements if requested), executed by the insurance broker responsible for the various required coverages, showing compliance with the insurance requirements set forth above. All certificates shall confirm that identified insurance policies provide for thirty (30) days' written notice to Lessor of the cancellation or material change of any insurance referred to therein. All such insurance policies shall be endorsed to waive rights of subrogation against Lessor. All policies maintained by Lessee will be written as primary policies, not contributing with and not supplemental to the coverage that Lessor may carry, and a copy of such insurance policies shall be provided to Lessor upon request.

8. ALTERATIONS: Lessee will make no alterations in or to the Premises and will not paint any part of the Premises without the written consent of Lessor, except as otherwise herein provided.

9. MAINTENANCE AND REPAIR RESPONSIBILITIES: Lessor will be responsible for maintenance and repair of the roof and all structural components of the structures on the Premises and for the maintenance of the major mechanical systems in such structures such as, but not limited to, HVAC, electrical, and plumbing (but excluding any issues caused by Lessee's neglect or misuse (e.g. plumbing blockages caused by Lessee)). Lessee will have a maintenance contract with a licensed and bonded mechanical contracting company for the periodic maintenance of the air conditioning and heating system to include but not limited to cleaning the drains and coils and any other work customarily performed under such contract. Lessee will also change the air conditioning filters at a minimum of once a month. Lessee will replace all plate and other glass, if and when broken; and will replace all keys lost or broken, and will pay all bills for sewer, water, light, gas and other utilities used on the Premises. Lessee will keep the interior of the Premises clean and in good order and condition, and will promptly replace or repair all damage caused by Lessee's neglect or misuse of the Premises.

Lessee shall maintain the Premises including the fenced in yard area in a clean and neat condition, storing all trash, garbage and rubbish in closed containers or dumpsters providing for prompt and regular removal of same, and Lessee shall not otherwise dispose of or burn any trash, garbage or rubbish on or about the Premises.

Lessor reserves the right after reasonable notice and at any time to enter upon the Premises to make such repairs and to do such work on or about the Premises as Lessor may deem necessary or proper,

or that Lessor may be lawfully required to make; and such repairs shall be made at Lessee's own risk as to its goods, wares, fixtures, equipment, stock, and furnishings, as to protection thereof from theft or damages or other hazard directly or indirectly connected with such repair work.

10. FIRE/WIND AND OTHER CASUALTIES: If the Premises shall be damaged or destroyed by fire, flood, windstorm, riot, insurrection or other cause, with or without fault of Lessee, then, and in that event, Lessor shall have the option within thirty (30) days from the time such damage shall have occurred to elect to either (a) terminate this Lease, or (b) repair and restore the Premises to its original shape and condition, and Lessee shall be notified of such election in writing.

11. IMPROVEMENTS: All improvements and additions to the Premises shall adhere to the Premises, and become the property of Lessor, with the exception of such additions as are usually classed as furniture and trade fixtures. Said furniture and trade fixtures are to remain the property of Lessee, and may be removed by Lessee upon the expiration of this Lease, provided all terms, conditions and covenants of the within contract have been complied with by Lessee and said Lessee restores the Premises to its original condition, normal wear and tear, excepted.

12. USE AND OCCUPANCY: Lessee shall use and occupy the Premises in a careful, safe and proper manner, and will not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and will comply with all lawful requirements of all valid laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Premises.

13. SURRENDER OF PREMISES: Lessee will deliver up and surrender possession of the Premises to Lessor upon the expiration of this Lease or upon its termination in any way in the same condition and state of repair as the Premises were in upon the Effective Date of this Lease unless, during the term of this Lease, the Premises or the improvements thereon are repaired, constructed or improved, in which event, in the condition existing after such repair, construction or improvement, normal wear and tear excepted. Lessee shall surrender all keys for the Premises to Lessor.

14. DEFAULT BY LESSEE: If Lessee shall fail to pay any money owed to Lessor hereunder promptly on the day the same shall become due and payable hereunder, or if Lessee shall fail to keep and perform promptly any other affirmative covenant of this Lease in accordance with the terms of this Lease and such failure shall continue for a period of thirty (30) days after receipt by Lessee of written notice thereof from Lessor, then the Lessor may, at its option, declare this Lease to be terminated, and enter into the Premises or any part thereof, with process of law, and expel Lessee or any person occupying the same in or upon said premises, and repossess and enjoy the Premises as in Lessor's former estate. This is in addition to any and all rights Lessor may have in law or in equity, and all such rights are reserved hereby.

15. NO WARRANTY OF CONDITION: Lessor does not warrant, and Lessee hereby acknowledges and agrees that Lessor has made no representation or warranty, that the Premises is fit for a particular purpose or that it is suitable for the use to which the Lessee intends to put it. Lessee has had an opportunity to inspect and observe the Premises, and Lessee enters into this Lease and takes the Premises "as is" and "where is" and "with all faults."

16. INDEMNITY: Lessee will indemnify and save harmless Lessor from all fines, suits, claims, demands and actions of any kind or nature, by reason of any breach, violation or non-performance of any condition hereof on the part of Lessee. Lessee will indemnify, protect and save harmless Lessor herein from any loss, cost, damage or expense caused by injuries to persons or property, while in, on or about the

Premises herein leased; provided such injury or damage is not caused by the Lessor's breach of its obligations under this Lease or its willful or wanton conduct.

17. LESSOR RELEASED. Lessor shall not be liable for any losses or damage caused by, or growing out of, any breakage, leakage, getting out of order or defective conditions of heating, air conditioning, other mechanical installations and/or systems electric wiring, pipes, or plumbing, or any of them, nor shall Lessor be liable for any damage to any property on the Premises caused by, or growing out of, fire, rain, lightning, wind, high water, over-flow water, freezing or other causes. Any and all property of Lessee which may be located or stored in the Premises shall be at the sole risk of Lessee.

18. ENVIRONMENTAL MATTERS: Lessee agrees, warrants and covenants that it will not use, bring on to, store, or otherwise introduce any Hazardous Substances or Materials to the Premises. "Hazardous Substance or Materials" means asbestos, urea formaldehyde, polychlorinated biphenyls ("PCBs"), nuclear fuel or materials, chemical waste, radioactive materials, explosives, known carcinogens, petroleum products or other dangerous, toxic, or hazardous pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or contaminant in, or the release or disposal of which is regulated by, any law or regulation. The foregoing notwithstanding, it is recognized that the Lessee's use of the Premises will or may, by the very nature of the activity, require that small quantities of materials which could be described as Hazardous Substances such as but not limited to turpentine, paint thinner, and other materials used in creating items of art to be brought onto and used on the Premises and such introduction and use is allowed, provided that Tenant shall at all times properly store and dispose of such materials.

19. DEFAULT BY LESSOR: If Lessor shall breach any warranty or fail to perform any covenant required to be performed by Lessor under the terms of this Lease, and if such breach or failure shall continue for a period of thirty (30) days after receipt by Lessor of written notice thereof from Lessee, then Lessee may declare this Lease to be terminated. This shall be Lessee's sole remedy.

20. SUCCESSORS IN INTEREST. Every provision hereof applicable to Lessor and every provision hereof applicable to Lessee shall also bind, apply to and run in favor of "their respective successors in interest" as fully as if said quoted words were inserted after the word "Lessor" and "Lessee" wherever they appear herein, except that this provision shall not permit the assignment of the Lease, or subleasing of the Premises except as expressly provided herein.

21. ATTORNEY'S FEE AND WAIVER OF EXEMPTIONS. In the event of employment of an attorney for the collection of any amount due hereunder, or for the institution of any suit for possession of said property, or for advice or service incident to the breach of any other condition of this Lease by Lessee, or on account of bankruptcy proceedings by or against Lessee, or legal process being issued against the furniture and effects of Lessee, located upon the Premises, or the leasehold interest of Lessee, Lessee agrees to pay and shall be taxed with a reasonable attorney's fee, which fee shall be a part of the debt evidenced and secured by this Lease.

22. LESSOR'S RIGHTS CUMULATIVE AND NON-WAIVER. The failure of Lessor to insist, in any one or more instances, upon a strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such covenants or option, but the same shall continue and remain in full force and effect. The receipt of Lessor of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing, and signed by Lessor. Lessor's rights herein are cumulative and in addition to those provided by law.

23. SEVERABILITY. If any term, covenant or condition of this Lease or the application thereof to any person or circumstances shall to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

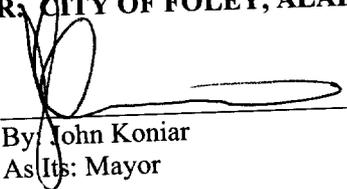
24. HOLDING OVER. Should Lessee continue to occupy the Premises after the expiration of said term, then, except as otherwise provided for in this paragraph, Lessee shall continue as a Lessee under the terms of this Lease (except as to duration) from month to month, and each holding over period thereafter shall in like manner create and cause a similar extension of this Lease from month to month. PROVIDED, HOWEVER, that if the said Lessee continues to remain in the Premises after the expiration of the said term or after a forfeiture incurred, Lessor, at any time, whether rent has been accepted by Lessor or not, reserves the unqualified right, or option to notify Lessee in writing of its election to terminate the Lease or any extension thereof, said termination to be effective at the end of the calendar month in which said notice is given.

25. NOTICES: Except under those circumstances where it is requisite that notice be given to Lessee at the Premises; any notice, demand, communication, or election to exercise any option hereunder, whether intended for Lessor or for Lessee, shall be in writing, and may be served or delivered in person, or by prepaid U.S. Registered or Certified mail, to the address of the party intended as the recipient thereof at such address is herein stated, or to such other address as the parties hereto may at any time, and from time to time, designate in writing.

26. ENTIRE AGREEMENT: This Lease contains the entire agreement between the parties and any agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such agreement is in writing and signed by both parties.

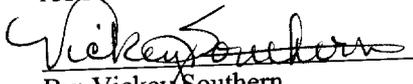
IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the date appearing together with their signatures below.

LESSOR: CITY OF FOLEY, ALABAMA


By: John Koniar
As Its: Mayor

Date: 10/20/14

ATTEST:


By: Vickey Southern
As Its: City Clerk

Date: 10-20-14

LESSEE: **PERFORMING ARTS ASSOCIATION,
AN ALABAMA NON-PROFIT CORPORATION
D/B/A FOLEY ART CENTER**

William M Moore
By: WILLIAM M MOORE
As Its: CHAIRMAN OF BO OF DIRECTORS

Date: 8 Oct 2014

ATTEST;

Fran Hopkins
By: FRAN HOPKINS
As Its: DIRECTOR

Date: 8 Oct 2014

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