

Item 109-1601-R 1100
Attachment

**ROE HOUSE LEASE AND PURCHASE OPTION AGREEMENT BETWEEN
WESTERN MONTANA COLLEGE AND THE WESTERN MONTANA COLLEGE
FOUNDATION**

This LEASE AND PURCHASE OPTION AGREEMENT (AGREEMENT) is made this 20th day of June, 1998 by and between Western Montana College of The University of Montana (College) and the Western Montana College Foundation (Foundation) for the occupancy and use by the College and the Foundation of the Roe House to be located on the College campus in Dillon.

WHEREAS, the Foundation has received as a donation the Roe House for the purpose of locating the Roe House on the main College campus in Dillon for College and Foundation occupancy and use; and

WHEREAS, the Foundation has also received a donation in the amount of \$250,000 in liquid assets for the purposes of restoring and renovating the Roe House for College and Foundation use and occupancy, as well as for historical preservation; and

WHEREAS, the College desires the Roe House location on the College Dillon campus because of the Roe House historical, aesthetic, functional and economic value to the College and to the Dillon community; and

WHEREAS, the College and the Foundation have agreed to utilize the \$250,000 donation to renovate and restore the Roe House to its original condition to the full extent practicable and consistent with its intended use; and

WHEREAS, the College and the Foundation require this AGREEMENT to define and set forth the terms and conditions for Roe House use, occupancy and possible future ownership transfer.

THEREFORE, the College and the Foundation hereby enter into this AGREEMENT pursuant to the terms and conditions set forth below.

1. The duration of this AGREEMENT shall be ten (10) years from the date of its execution by both parties.
2. The College shall pay the Foundation a representative portion of the actual cost of utilities and maintenance, approximately \$3000 annually, on or before July 31 of each year, for a duration of ten years, as a rental payment as long as the College occupies and uses the Roe House; except that such annual rental payment shall be prorated on a monthly basis for any 12-month period in which the College either assumes outright ownership pursuant to paragraph 7(b) below or otherwise ceases to use or occupy the Roe House.
3. The College shall be entitled to occupy up to 2400 square feet of the available 4800 square feet of the Roe House during the length of this AGREEMENT for the College

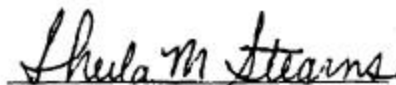
use and purposes; and the parties shall negotiate and decide in good faith on the specific space to be occupied by the College pursuant to this paragraph.

4. The Foundation shall pay the College \$1.00 per year, an amount which may be deducted from the annual rental payment owed by the college to the Foundation pursuant to paragraph 2 above, in return for the right to locate the Roe House on the main College campus in Dillon, which the parties presently intend be in a grassy area between Main Hall and Mathews Hall.
5. Notwithstanding the Roe House location intended in paragraph 4 above, the College may, with prior Foundation written consent, relocate the Roe House to any other sight on the main college campus in Dillon deemed suitable by the College; and the Foundation shall not unreasonably withhold its consent for such relocation.
6. During the duration of this AGREEMENT, the Foundation shall have the right to occupy up to 2400 square feet of the Roe House rent free, in space to be mutually agreed upon in good faith by both parties.
7. At the end of the ten (10) year AGREEMENT period the College may exercise any of the following options:
 - a) purchase all Roe House ownership interests outright from the Foundation for \$1.00; or
 - b) Continue occupancy and use of the Roe House pursuant to a new, mutually acceptable AGREEMENT which the parties shall negotiate with each other in good faith; and until such new AGREEMENT is executed, this AGREEMENT shall remain in effect on a month-to-month basis.
8. The Foundation shall assume the sole responsibility and cost for all Roe House cleaning, maintenance, repairs and utilities during the duration of this AGREEMENT.
9. The College and the Foundation agree to indemnify and hold harmless each other and each other's employees, agents or authorized representatives, for all legal claims and legal defense costs arising from the negligent or other tortious acts and omissions by the indemnifying party or the indemnifying party's employees, agents or authorized representatives in connection with Roe House occupancy or use activities.
10. The College and the Foundation shall collaborate with each other closely and in good faith on all aspects of the Roe House restoration and renovation to ensure compliance with donor intent plus any applicable laws, College and Montana University System policies.
11. The Foundation shall be financially and legally obligated to pay any taxes owed on the basis of either Foundation ownership or Foundation use of the Roe House; and the College shall be financially and legally obligated to pay any taxes owed on the basis of College occupancy or use of the Roe House.

12. The terms included in this AGREEMENT constitute all of the final terms and conditions of this AGREEMENT and no other term or condition, whether written or oral, except for post-AGREEMENT modifications mutually agreed to in writing by the College and the Foundation apply to this AGREEMENT.
13. The College reserves the right to discontinue this AGREEMENT should the activities authorized hereunder conflict with College or Montana University System operations or policies, or impose excessive financial hardship on the College; and discontinuation under such circumstances will result in no liability of any kind to the college or Montana University System. The College must provide the Foundation with reasonable advance written notice of its intent to discontinue the AGREEMENT pursuant to this paragraph; and should such discontinuation occur, the College shall in good faith with the Foundation to minimize any adverse financial impact caused by such decision on the Foundation.
14. The Foundation covenants and agrees that it will not assign, transfer, sell or subcontract its interest in this AGREEMENT or in the Roe House without the college's prior written consent.
15. Either party may terminate this AGREEMENT if the other party materially breaches any AGREEMENT term or condition, provided that (a) the non-breaching party has given the breaching party written notice of the alleged breach and at least sixty (60) days to cure it; and (b) the breaching party fails to cure the breach within the amount of time set forth in the written notice by the non-breaching party.
16. As per Montana Board of Regents Item 98-1601-R0198 (attached) this AGREEMENT shall have no legal effect prior to final approval by the Commissioner of Higher Education.
17. The parties represent and warrant that they have all legal authority necessary to enter into this AGREEMENT and perform all AGREEMENT terms and conditions, subject to paragraph 16.

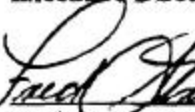
WITNESS WHEREOF the parties hereto have executed this AGREEMENT, to be effective June 23, 1998 through June 23, 2008.

For the College:

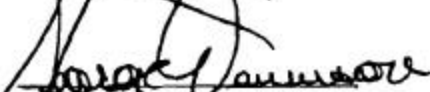

 Sheila M. Stearns
 Chancellor

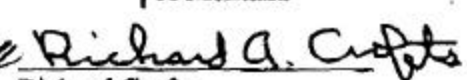
For the Foundation:


 Tom Yarracs
 Executive Director


 Fred Stradinger
 President

For the University System:


 George Dennison
 President, The University
 of Montana


 Richard Crofts
 Commissioner