FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
REAL ESTATE SUBCOMMITTEE

May 29, 2014
3:30 pm
Florida International University
Modesto A. Maidique Campus
PC 521

Subcommittee Membership:
Michael M. Adler, Chair; Mayi de la Vega; Marta Canaves; William Hardin; Irtishad Ahmad; Jose I. Garcia

Staff Liaison:
Kenneth A. Jessell, Chief Financial Officer and Senior VP for Finance and Administration

AGENDA

1. Approval of Minutes               Michael M. Adler

2. Discussion Items

  2.1 Museum of Science Inc. Development and Operating Agreement Proposal
      Kenneth A. Jessell
  2.2 International Center for Tropical Botany, Educational Site Proposal
      Kenneth A. Jessell
  2.3 University City Prosperity Project TIGER Improvements
      Kenneth A. Jessell
  2.4 Biscayne Bay Campus Housing
      Kenneth A. Jessell
The BOT Real Estate Subcommittee meeting was called to order by Subcommittee Chair Michael M. Adler at 1.08 pm on Monday, September 9, 2013 at the Modesto A. Maidique Campus, PC 521 (Primerasa Casa building).

The following attendance was recorded:

**Present**
Michael M. Adler, Chair
Mayi de la Vega
Marta Canaves
William Hardin (participated telephonically)
Irtishad Ahmad
Kenneth A. Jessell, Staff Liaison

**Excused**
Jose I. Garcia

Aime Martinez, Associate Vice-President for Business and Finance, Fleta Stamen, Associate General Counsel, Christina Jardim, Director Enterprise Development and James Wassenaar, Director Facilities Planning for Division of Student Affairs, were also in attendance.

Subcommittee Chair Adler welcomed all members and thanked them for their participation.

1. **Approval of Minutes**
Committee Chair Adler asked that the Committee approve the Minutes. A motion was made and passed to approve the Minutes of the Real Estate Subcommittee Meeting held on May 14, 2013.

2. **Discussion Items**
2.1 **Production, Rehearsal and Performance Facility at BBC**
Chair Adler asked that Senior Vice President for Finance and Administration and Chief Financial Officer Kenneth A. Jessell present an overview of the negotiations with the private/public collaboration with Royal Caribbean Cruises Ltd (RCL) Production, Rehearsal and Performance Facility at the Florida International University (FIU) Biscayne Bay Campus (BBC).

CFO Jessell noted that Intent to Negotiate (ITN) was issued in September 2012 to establish a partnership with an organization that will construct and operate a production, rehearsal and
performance facility at no cost to FIU. The benefits of the collaboration are to enrich student’s academic and job opportunities, internships, work-study programs and generate new revenue opportunities for FIU. RCL responded to the ITN.

CFO Jessell provided the terms and conditions that will serve both parties goals and missions. The terms require RCL to sublease for 40 year with an up-front payment of $2.2M; four 5-year renewal periods at market value. RCL is responsible to design, construct and operate at their sole expense a Production, Rehearsal and Performance (PRP) facility totaling 130,000 square feet on approximately 2.5 acres of land at cost of $20M. RCL is also responsible for repurposing the existing Bay Vista Housing for use as employee housing for teachers, performers and cast. RCL will pay for the shared use of campus amenities such as recreation facilities and food service. CFO Jessell indicated that FIU does not have any financial obligation for the capital improvements or facility operating costs of PRP.

CFO Jessell reviewed the specifics of the academic tie to mission and non-financial components of the collaborative program with RCL that will make FIU World’s Ahead. He emphasized that the PRP facility will be available for FIU students and faculty as part of the innovative state-of-the-art performing arts curricula, back-of-the-house operations and participation in training programs. RCL will provide 20 paid internships and career fairs, guest lectures, technique workshops and master classes. RCL senior leadership will participate in FIU’s College Advisory Councils and Leadership Advisory Boards. RCL will also share business and research data for faculty and staff research opportunities.

CFO Jessell provided background information of the existing Bay Vista Housing at BBC and future housing plans with RCL. He concluded his presentation by reviewing next steps to finalize negotiations.

William Hardin inquired about maintenance of the PRP and CFO Jessell explained that the Ground Sublease Agreement will include that the interior, exterior and design maintenance of the facility must meet FIU requirements and standards.

Chair Adler recommended including in the agreement the specifics of the use of parking and traffic area by RCL. CFO Jessell specified that RCL will replace displaced parking and demolish dilapidated building (former Children’s Learning Center and Wellness Center) next to PRP facility at BBC. Also, RCL will purchase parking decals for Bay Vista housing parking and will construct, pay and maintain on-site PRP parking. Traffic should not be a major issue since most of the RCL employees will be temporary residents and without vehicles.

Marta Canaves inquired about FIU branding and the impact of the negotiation on the university’s master plan. CFO Jessell described where the PRP facility will be located at BBC and stated that the master plan has been updated. Also, he indicated that the FIU logo will be incorporated in the building design and that RCL will be required to obtain FIU approval on signage.
Fleta Stamen reviewed the core agreement legal highlights noting that FIU will provide the property to RCL in “AS IS” condition. RCL is required to pay all costs, taxes, fees and charges attributed to property and improvements. RCL needs to comply with FIU insurance and bonding requirements and meet other specified requirements as negotiated.

Lastly, in order to protect the University, Chair Adler suggested looking at the possibilities of RCL getting sold and to what extent the University would want to partner with an entity that might not follow the same vision.

William Hardin recommended approval of the ITN process and proceeding with negotiations to complete the RCL-FIU Partnership.

The Real Estate Subcommittee made a recommendation to the Board of Trustees approval to negotiate and enter into the appropriate agreement with RCL or an affiliated entity to fund and develop state-of-the-art Production, Rehearsal and Performance facility at BBC and to delegate authority to the President or his designee to negotiate and execute all agreements deemed necessary to consummate the FIU-RCL transaction.

Chair Adler adjourned the meeting of the BOT Real Estate Subcommittee meeting on Monday, September 09, 2013 at 2.17pm.

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THE FLORIDA INTERNATIONAL UNIVERSITY  
BOARD OF TRUSTEES  
June 3, 2014  

Subject: Approval of Museum of Science, Inc. Joint Development and Operating Agreement  

Proposed Board Action:  
The Florida International University Board of Trustees hereby approves the Museum of Science, Inc. (“Museum”) Joint Development and Operating Agreement; delegates to the University President the authority to finalize all exhibits and execute all documents related thereto; and approves the construction of the Batchelor Environmental Center at FIU facility on the North side of the Biscayne Bay Campus.  

Background Information:  
The Museum of Science, Inc. d/b/a the Patricia and Phillip Frost Museum of Science is a not-for-profit corporation located in Miami Florida.  
The Museum desires to collaborate with FIU in furtherance of the University’s teaching, research and public service missions, and to develop and construct a facility on a parcel of vacant land consisting of approximately 75,000 sq. ft. located on the North side of FIU’s Biscayne Bay Campus. The Museum will contribute to FIU $5 million for the construction of the Facility through a generous donation received from the Batchelor Foundation, Inc., and the Facility will be designed and constructed to this budget. The Facility will consist of a LEED registered two-story building of approximately 3,000 gross square feet with an accessible roof for additional programming; a number of outdoor aviaries in a space consisting of approximately 72,000 sq. ft.; holding tanks and support areas for both quarantine, treatment and display of plants and animals; storage and loading areas.  
The Facility will be used by FIU for its educational purposes and by the Museum for its animal care needs. The facility will be known as the Batchelor Environmental Center at FIU.  

In addition to funding the construction costs, the Museum has agreed to cover the Facility’s ongoing operating and maintenance expenses. The Museum has also agreed to provide FIU with space at its new Museum Park facility in downtown Miami, Florida in furtherance of the parties’ collaboration, once construction of the Museum’s new downtown facility is completed.  
The Facility will provide FIU students a unique opportunity to gain hands-on experience with large marine animals and large birds. As such, it will attract outstanding students who would not normally consider FIU and provide experiences for pre-vet students with exotic animals that are rarely available on college campuses. The collaboration will provide classroom space for four new Professional Science Masters. The Museum will also recognize FIU as the primary academic partner in promotional and collateral materials, wherever FIU content or research is being demonstrated or displayed, and at the Museum Park facility and the Project Site. The Museum shall also include FIU research in Museum exhibits and related programming.
Legal Authority:

Florida Statute 1013.74(2)(a) provides the University Board of Trustees with the authority to approve the following fixed capital outlay projects:

“Construction of any new buildings, or remodeling of existing buildings, when funded from non-state sources such as federal grant funds, private gifts, grants, or lease arrangements if such grants or gifts are given for the specific purpose of construction.”

Supporting Documentation: Joint Development and Operating Agreement between the Museum of Science, Inc. and the FIU Board of Trustees

Facilitator/Presenter: Douglas Wartzok
JOINT DEVELOPMENT AND OPERATING AGREEMENT
between
MUSEUM OF SCIENCE, INC. d/b/a
PATRICIA AND PHILLIP FROST MUSEUM OF SCIENCE
and
ELORIDA INTERNATIONAL UNIVERSITY FOUNDATION, INC.
and
THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

This Joint Development and Operating Agreement (this "Agreement") is entered into as of April 25, 2014 (the "Effective Date") between the Museum of Science Inc., a Florida not-for-profit corporation d/b/a the Patricia and Phillip Frost Museum of Science (the "Museum"), the Florida International University Foundation, Inc., a Florida not-for-profit corporation (the "Foundation") and The Florida International University Board of Trustees, a public body corporate of the State of Florida ("FIU" or "University").

WHEREAS, the Museum is currently developing a new science museum and ancillary facilities, consisting of approximately 250,000 square feet of indoor space and approximately 100,000 square feet of outdoor space (the “MOS Project”), on four acres of property within Bicentennial Park (now known as Museum Park), in downtown Miami, Florida ("Museum Park Project");

WHEREAS, the Museum has a need for an ancillary facility to support its animal husbandry and veterinary needs and related research activities (the "Facility"), and desires to contribute up to $5 million to the development, construction and fit-out of the Facility and otherwise collaborate with the University in support thereof;

WHEREAS, in furtherance of the University’s teaching, research and public service missions, the University desires to work with the Museum to develop its academic and research collaboration with the Museum; develop and construct the Facility at the FIU Biscayne Bay Campus for the benefit of FIU and the Museum; and to permit the Museum to manage and operate and use the Facility along with FIU upon the terms and conditions described herein.

NOW THEREFORE, the parties agree as follows:

I. AGREEMENT CONTINGENCIES

The parties acknowledge and agree that this Agreement and the obligations herein are subject to and contingent upon each of the following conditions being satisfied: (i) the approval of the transaction by the University’s Board of Trustees; (ii) approval of the transaction by the Board of Trustees of the Museum and the FIU Foundation, if necessary; and (iii) any other governmental or regulatory approvals that may be required, including but not limited to the State of Florida
Internal Improvements Trust Fund (“IITF”) (collectively the “Contingencies”). Unless otherwise agreed to by the parties in writing, in the event that any of the Contingencies are not satisfied within 90 calendar days after the Effective Date, this Agreement shall be deemed null and void and the parties shall have no further obligations or liabilities hereunder. The parties recognize that should approval of the IITF be required, FIU shall be afforded any additional time that may be necessary to satisfy the Contingencies.

II. **FACILITY**

A. The University shall make available the parcel of vacant land consisting of approximately 75,000 sq. ft. at FIU’s Biscayne Bay Campus (“BBC”), approximately located in the area described more fully in Exhibit A hereto, to construct and operate the Facility (consisting of the FIU Property and Museum Equipment, as defined below) (collectively the “Project Site”).

B. Subject to the definitive scope of the project (as determined in accordance with Section III of this Agreement), the parties expect the Facility will consist of a LEED registered two-story building of approximately 3,000 gross square feet with an accessible roof for additional programming; a TBD number of outdoor aviaries in a space consisting of approximately 72,000 sq. ft.; holding tanks and support areas for both quarantine, treatment and display of plants and animals; storage and loading areas, up to four (4) designated parking spaces and access to additional metered or decal parking; vehicular access to public roads and marina facilities; and access to purified seawater. The building and any associated parking, storage and loading areas, utilities and other improvements constructed on the Project Site (the “FIU Property”) will be owned by FIU, while the holding tanks, life support systems, aviaries and other equipment, furniture and fixtures associated with and located at the Project Site (the “Museum Equipment”) will be owned by the Museum. At the expiration or earlier termination of this Agreement, the Museum shall not remove any equipment owned by the Museum that is necessary for the care of animals still remaining at the Project Site until the final disposition of the animals has been accomplished with disposition solely under the authority of the owner or permitted entity of the animals.

C. Based upon the Museum’s preliminary estimates, the Museum represents that the aggregate cost for the design, construction and equipping of the FIU Property and the Museum Equipment shall not exceed $5 million and the Facility will be designed to this budget, including a design and construction contingency. The Museum will contribute up to the $5 million to FIU to pay architects, engineers, consultants, contractors and vendors selected and engaged pursuant to Section III of this Agreement (collectively, the “Contractors”) the fees, costs and expenses incurred in the design, development and construction of the FIU Property as and when due. FIU and/or the Foundation shall apply any such funds solely and exclusively in satisfaction of its obligations to the Contractors in respect of the FIU Property as and when due. The Museum shall separately acquire and install, or cause to be acquired and installed, the Museum Equipment within the $5 million budget.
III. FACILITY PLANNING

A. The Museum and FIU will work together to establish a mutually agreeable project scope and project time-line for the commencement and completion of the Facility. The parties shall use reasonable commercial efforts to complete the project scope and the mutually agreed project time-lines.

B. The Museum acknowledges and agrees that FIU shall have no obligation or responsibility whatsoever to contribute any funds toward the project budget for the FIU Property or Museum Equipment. In the event the estimates for design, construction, and equipping of the Facility exceed the available funds, the parties shall work together to adjust the project scope to complete the project within the $5 million project budget, unless the Museum provides additional funding to cover such project costs. Except for the expenditure of funds contributed to FIU or the Foundation by or on behalf of the Museum in respect of the FIU Property, FIU and the Foundation shall have no liability or obligation whatsoever to expend any funds to design, construct and equip the FIU Property, as the Museum shall be solely responsible for all such costs. In the event the Museum is unable to adjust the project scope or identify sufficient funds for the design, construction and equipping of the FIU Property, then either party may terminate this agreement upon written notice to the other party and neither party shall have or owe any further obligation to the other party.

C. FIU will engage the Contractors for the design, development and construction of the FIU Property; provided, however, the Museum shall have the opportunity to provide input as to vendor-related matters and shall participate as a member of any Selection Committee that may be convened in accordance with FIU’s policies and procedures. FIU shall coordinate its efforts with the Museum and keep the Museum reasonably informed of the proposed terms and conditions of agreements with the Contractors prior to FIU entering into agreements with the Contractors. FIU shall not award any contract for the construction of the FIU Property unless all funds for that scope of work of the FIU Property have been received by FIU or the Foundation. FIU Facilities Management staff will manage the design and construction of the Project and charge its standard 3% construction management overhead fee.

D. The Museum will be solely responsible for the acquisition and installation of the Museum Equipment; provided, however, that with respect to any work to be performed on or relating to the Project Site or the FIU Property, the Museum shall coordinate all such efforts with FIU in advance and shall develop all proposed plans and specifications related to the Museum Equipment with input from FIU and in accordance with the provisions of this Agreement.

E. The design, construction and equipping of the FIU Property and the installation of the Museum Equipment shall comply with all applicable laws, FIU regulations, policies and procedures, including but not limited to FIU design and construction standards which are shown on FIU Facilities Management Website at: http://facilities.fiu.edu/planning/regulations.htm and http://facilities.fiu.edu/formsandstandards.htm (hereinafter, collectively referred to as the “Facilities Management Website”) and, as relates to the animal care use of the facilities, all applicable laws and regulations pertinent to such use.

F. The design for the Facility and material components therein shall be developed collaboratively with input, review and approval of the Museum, subject to final approval by
FIU, including but not limited to the design and engineering specifications for improvements, tanks and tank waterproofing, all wildlife support systems and other mechanical, electrical and plumbing systems and all signage and interpretive design elements, provided, however, that all aspects of the project must adhere to FIU’s requirements or standards and FIU shall have final approval of all plans and specifications. The FIU Property will be designed to meet AZA, USDA, NMFS, FLFWS and other regulatory standards governing such organizations, as well as the standards pertaining to animal care facilities set forth in Section VIII below. The FIU Property shall be designed to be compatible with the BBC campus property, as reasonably determined by FIU. The architect for the Facility shall take into account the architectural designs and ambiance at BBC, the location of the Project Site, and the necessity that the final design complements other buildings and facilities in the surrounding area.

G. Each party agrees to immediately notify the other parties if it becomes aware of the potential for a construction delay. The parties shall use best efforts to work together to avoid delays in construction. FIU shall have no responsibility or liability whatsoever for any construction-related delays, other than any such non-concurrent, non-excusable delays that are caused by a default by FIU under the terms of this Agreement or any agreement between FIU and a Contractor.

IV. OWNERSHIP AND USE OF THE FACILITY

A. The FIU Property and the Project Site shall be owned and used by FIU primarily for the educational purposes outlined in Exhibit B hereto, including access to scheduled classroom space at the Facility for four new professional science masters, research, summer camps and other outreach purposes, and as a conservation center.

B. Subject to FIU’s use of the FIU Property and the parties’ coordination of their respective activities in accordance with this Agreement, FIU hereby grants to the Museum an exclusive license to use and operate the FIU Property and the Project Site in collaboration with FIU as an ancillary and complementary off-site facility that is open to the public and used primarily to (i) quarantine, hold and/or display the Museum’s corals, fish and other aquatic plants and animals at the Museum’s sole cost and expense; (ii) quarantine, hold and/or display the Museum’s birds, other animals and plants at the Museum’s sole cost and expense; (iii) house the Museum’s ongoing raptor rehabilitation program at the Museum’s sole cost and expense; and (iv) facilitate the expansion of the Museum’s volunteer environmental restoration work and the parties’ educational programming in accordance with internationally recognized best practices for comparable facilities. The Museum hereby grants to FIU an exclusive license to use and operate the Museum Equipment (subject only to the use of the Facility by the Museum as contemplated in this Agreement) for instructional, research and outreach purposes and as a conservation center. Except as specified herein, no party shall use the Facility for any other purposes without the prior written consent of the other party, which consent may not be unreasonably withheld.

C. FIU and the Museum shall each use and occupy the Project Site in a careful, safe and proper manner, in compliance with the requirements of this Agreement and in compliance with all applicable State of Florida, local and federal laws, ordinances, rules, codes, directives, guidelines, and regulations and the requirements for the accreditations pertaining to the animal care and use described in Section VIII of this Agreement (collectively referred to in
this provision as "Regulations/Requirements"), including but not limited to the Regulations/Requirements of the Florida Board of Governors regulations, and accreditation requirements. FIU and the Museum shall each maintain areas it uses in a clean and safe condition.

D. Neither FIU nor the Museum shall do or permit any act or thing which is contrary to the Regulations/Requirements, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Project Site or any part thereof, or which would impair the value of the Project Site or any part thereof.

E. The Museum's use of the Project Site shall be for a term of 30 years commencing on the substantial completion of the Facility and ending 30 years thereafter (the "Use Period"). This Agreement may thereafter be renewed on mutual agreement of the parties. Following the expiration of the Use Period or any renewal period under this Agreement, the Facility may be used in furtherance of FIU's environmental conservation, environmental research or environmental educational purposes.

F. In the event the use of the Project Site by the Museum requires any governmental approvals, including but not limited to zoning approval, the Museum shall be solely responsible for obtaining such approvals as a condition of its use of the Project Site. In the event the use of the Project Site by FIU requires any governmental approvals, including but not limited to zoning approval, FIU shall be solely responsible for obtaining such approvals as a condition of its use. In furtherance of the parties' cooperative efforts, each party agrees to assist and support the other party in obtaining any governmental approvals that may be required.

G. The parties shall establish an Advisory Committee of seven (7) members, with three (3) members appointed by the Dean of the College of Arts & Sciences; three (3) members appointed by the Museum Chief Executive Officer; and one (1) member selected jointly by the Dean and the Museum Chief Executive Officer. The Advisory Committee shall assist with scheduling and coordination of the parties' respective activities at the Project Site, and shall serve as a resource to the parties with respect to the operations of the Project Site, development of joint programming, fundraising and community outreach efforts. In order to permit the parties to plan and budget effectively, the Advisory Committee will meet at least annually to identify the current and planned areas of collaboration and/or work plans for activities at the Project Site.

H. The parties recognize that the Museum's reasonable animal husbandry, veterinary and conservation needs shall guide the parties' respective programming efforts and use of the Project Site. In the event of a scheduling conflict, the Museum and FIU agree to negotiate in good faith to resolve the conflict. In making its final decisions as owner of the Project Site, FIU Property and campus, FIU shall provide due consideration for the Museum's reasonable animal holding and veterinary needs.

I. The Museum and FIU shall reasonably cooperate with each other to ensure that each party's use and enjoyment of the Project Site and the areas surrounding same are interfered with as little as reasonably possible during any party's use thereof, as applicable.

J. The parties agree to collaborate to maximize the potential of the Project Site, which may
include, but is not limited to, (i) the preparation and submission of joint grant applications for research projects, (ii) the organization and conduct of joint research projects, (iii) the organization and conduct of restoration projects of coastal lands, (iv) the organization and conduct of classes for students and summer camps, and (v) the offering of professional development opportunities and internships, with the revenue and costs associated with any such initiatives allocated between the Museum and FIU on a project-by-project basis. The parties may develop joint fundraising efforts to the extent such activities are appropriate to facilitate and support specific collaborative projects that are consistent with each party’s educational, research and/or public service mission, including but not limited to creating separate fund(s) within the Foundation to hold any donations made for the benefit of the parties’ joint projects.

K. FIU and the Museum shall collaborate on formal and informal academic programs to be delivered at the downtown Museum Park Project, as outlined in Exhibit B. To avoid interruptions of Museum programming, the scheduled space and times of FIU classes or other activities will be negotiated by the Advisory Committee prior to its commencement.

L. FIU shall be solely responsible for all of its curriculum and academic program development, in accordance with applicable law and accreditation requirements. At FIU’s sole discretion, FIU may establish or designate its activities at the Project Site as an academic center of FIU under the College of Arts & Sciences in accordance with all applicable FIU regulations or policies. FIU agrees to explore the possibility of extending courtesy research appointments for qualified Museum researchers, in accordance with FIU policies and procedures and academic requirements.

V. FACILITY OPERATING COSTS

A. FIU shall be solely responsible for all programming costs associated with its academic or other FIU activities conducted at the Project Site. FIU shall be responsible for any incremental costs associated with FIU’s specific use of the Museum’s animals or the Museum Equipment when such use falls outside of the Museum’s planned operating needs. The Museum shall be solely responsible for all costs associated with its operation and use of the Project Site, including but not limited to its animal care or rehabilitation activities at the Project Site, and for costs associated with the management, maintenance and operation of the Facility as specified herein.

B. Each party shall be entitled to retain the revenue generated by each such party from its activities at the Project Site and shall conduct all of its activities at the Project Site at its sole cost and expense. Except as specified herein as to each party’s payment of its costs and expenses, the Museum shall not be charged by FIU for its use of the FIU Property or Project Site and FIU shall not be charged by the Museum for its use of the Museum Equipment.

C. The Museum shall be solely responsible for management, operation and maintenance of the Project Site, including common areas, and payment of associated expenses, including but not limited to the Museum’s animal care activities as set forth in Section VIII below, security, maintenance, janitorial, waste disposal (including hazardous waste disposal), pest control, environmental health & safety, electrical and lighting, plumbing, air conditioning, ventilating,
inspections, telephone and internet, equipment, supplies, signage, fire detection and sprinkler systems, utility services (including, without limitation, electricity, stormwater, purified seawater, water, gas and sewage), and any other cost or operational expense of any other nature occasioned by the use of the Project Site. In the event the Museum fails to meet FIU standards for building and grounds maintenance, FIU will provide notice to the Museum and the Museum will be given a reasonable time to meet this requirement. FIU will not be responsible to cover any maintenance-related costs, including costs associated with meeting FIU’s building and/or grounds maintenance standards, except for costs incurred solely for the benefit of FIU and at FIU’s request. In furtherance of the parties’ collaboration, FIU and Museum agree to annually coordinate the costs and expenses associated with their respective activities at the Project Site, to ensure the parties’ ability to budget for and fund their respective obligations with regard to the use of the Project Site.

D. The Museum shall also be responsible for common area operating expenses, which shall be defined herein as all costs and expenses incurred by Museum and disbursements which Museum shall be required to pay relating to the management, operation, replacement, repair, and maintenance of common areas servicing the Project Site, including:

1) The operation, repair and maintenance, in neat, clean, good order and condition of the following: (a) the common areas and the common area improvements, including loading and unloading areas, trash areas, walkways, landscaped areas, common area electrical and lighting facilities, fences, gates, elevators, stairwells, roof and roof drainage systems; plumbing, air conditioning, ventilating, inspections, normal wear and tear repairs, replacements or like expenses; (b) repairs, restoration or other work occasioned by fire, windstorm, or other casualty after proceeds from any insurance is first deducted; (c) exterior signs and directories; and (d) fire detection and sprinkler systems.

2) The cost of water (domestic water and sewer), chilled water, gas, electricity, and telephone to service the common areas and any utilities not separately metered, trash disposal for common areas, pest control services, property management and security services, and the costs of any environmental inspections.

3) Reserves set aside for maintenance and repair of common areas.

4) The costs of the premiums for the insurance coverage Museum is required to pay to protect the FIU Property and the Project Site.

5) Any deductible portion of an insured loss concerning the FIU Property and the Project Site.

6) Notwithstanding the above terms, the Museum shall be solely responsible for any and all excess common area operating expenses incurred solely in connection with and unique to the operations of the Museum outside of normal usage during Facility operating hours and FIU shall be solely responsible for any and all excess common area operating expenses incurred solely in connection with and unique to the operations of FIU outside of normal usage during Facility operating hours.
E. At the request of the Museum, FIU will pump salt water from FIU’s Marine Science Building to circulate into the Museum’s saltwater holding tanks at the Project Site. The Museum shall be responsible for all costs associated with the connection of the water system at the Project Site to the FIU salt water pump at FIU’s Marine Science Building. At the request of the Museum, the Museum and FIU shall confer as to how the water connection will be effectuated between the two facilities. The Museum shall reimburse FIU for the costs associated with the same. FIU shall have no liability for, and the Museum hereby holds FIU harmless, for any damages or claims resulting from the Museum’s use of FIU’s saltwater as set forth above.

F. Each party shall be responsible for any taxes or fees which may accrue as a result of its use of the Facility.

VI. GENERAL OPERATIONAL REQUIREMENTS

A. Open for Business: The Facility shall be open to the public [Monday - Sunday, 9 a.m. to 6 p.m., unless otherwise agreed to by the parties.

B. Museum Services: Museum shall provide routine property management, maintenance, cleaning and janitorial services for the Project Site, consistent with FIU facilities management standards and the processes and procedures required to maintain AZA accreditation and best practices necessary for animal care at the Facility. Neither party shall be in breach of this Agreement or liable to the other party for damages or otherwise for any failure to furnish, or a delay in furnishing, or a change in the quantity or character of any service when such failure, delay or change is occasioned, in whole or in part, by repairs, improvements or mechanical breakdowns by the act or default of the other party, any third-party or by an event of Force Majeure. No such failure, delay or change shall relieve either party from performing any other obligations of that party under this Agreement without any deduction or offset. Should any equipment or machinery furnished by either party break down or for any cause cease to function properly, the party furnishing the equipment or machinery shall use reasonable diligence to repair same promptly, but neither party shall have any claim for abatement of amounts otherwise due under this Agreement or damages on account of any interruption of service occasioned thereby or resulting therefrom. Except as otherwise specifically agreed to by separate written agreement, FIU shall not be required to furnish any additional services for or in the Facility. The Museum shall be responsible for the oversight, maintenance and repair of the Museum Equipment and/or any other Museum-owned equipment at the Project Site, including but not limited to, equipment used by the Museum to house and care for its animals. The Museum shall obtain its own contractors for the janitorial services and other maintenance-related services for which Museum is responsible under this Agreement, provided the contractors meet all applicable FIU requirements, and shall be solely responsible for all costs associated with the same. FIU shall have no liability for any damages resulting to the Museum, including but not limited to, any damages to the Museum’s animals housed at the Project Site, if such damages are caused as a result of maintenance services, janitorial services or other services contracted by the Museum or as a result of the failure of the Museum’s equipment for any reason, including but not limited to, equipment failure due to a Force Majeure event or equipment failure caused by the Museum’s failure to properly maintain its equipment.
C. **Access to Facility:** The Museum staff and invitees will have access to the Facility on a 24 hours per day, seven days per week, 365 days per year basis, in accordance with the provisions set forth herein. All visitors to the Facility shall adhere to and observe all applicable laws, rules, regulations, and policies which govern FIU property. FIU may, at any time and for any reason, require that FIU, the Museum or other authorized personnel, vacate the Project Site for a limited period of time (it being understood that FIU will use its reasonable efforts to provide the Museum with advance notice of any such requirement and any such requirement will be of limited duration and not unreasonably interfere with the operations of the Museum at the Project Site).

D. **Parking:** The Museum shall be entitled to up to four (4) dedicated parking spaces, with the costs to be included as part of the Facility construction budget. Museum employees shall be entitled to purchase parking decals at the applicable administrative rate in effect at the time of purchase, on an as-needed basis, from FIU Parking and Transportation on the same terms and conditions as FIU administrative employees and in accordance with the FIU Parking Regulation FIU-1105, as may be amended from time to time, located at http://regulations.fiu.edu/regulation. Visitor spots with parking meters are also accessible at FIU; provided, however, to the extent the Project Site includes parking areas, any such parking areas will be designated for the exclusive use of the Museum and its invitees and at no additional charge to the Museum or any such invitees. FIU makes no warranty or representation whatsoever that the Project Site shall be large enough to accommodate any exclusive designated parking for the Museum or its invitees other than the 4 dedicated parking spaces referenced above. The Museum recognizes that parking facilities of FIU are operated on a first come, first served basis. The Museum and its employees shall be required to comply with the FIU Parking and Transportation regulations, policies, and procedures which are available on-line at the FIU Parking and Transportation website.

E. **Installation/Removal of Improvements, Fixtures and Machinery/Equipment:** The Museum shall coordinate with FIU Facilities Management Department and the FIU Environmental Health and Safety Department at http://chhs.fiu.edu (if applicable) and the FIU Animal Care Facility (if applicable) prior to installing machinery and equipment necessary or desirable to conduct its business at the Project Site (including the Museum Equipment). FIU shall appoint the liaison(s) to coordinate these activities; the liaison for the Animal Care Facility is identified in Section VIII below. The Museum shall be solely responsible for any and all costs and expenses pertaining to the installation of its machinery and equipment within the Project Site (with the initial cost included within the $5 million overall budget). All trade fixtures, including tanks, LSS equipment, animal enclosures, furniture, furnishings and signs installed in or to the Facility by the Museum and paid for by the Museum (including the Museum Equipment) shall remain the property of the Museum and may be removed by the Museum at any time, provided, however, that the Museum shall repair any damage caused by such removal. If the Museum fails to remove such items from the Facility within sixty (60) days following the expiration or earlier termination of this Agreement, all such trade fixtures, furniture, furnishings and signs shall become the property of FIU, unless FIU elects to require the removal in which case the Museum shall promptly remove the same and restore the Facility to its prior condition or FIU shall itself provide for the removal and shall charge the Museum for the costs related thereto.
F. Promotion, Signage and Advertising: The Facility shall be named, and operate under the name, "[The Bachelor Environmental Center at FIU"] and any such name or logo for the Facility shall include reference to "The Patricia and Phillip Frost Museum of Science." The Museum shall not, without having first obtained FIU's prior written consent, place, erect, or maintain or suffer to be placed, erected or maintained on any doors or any other exterior surface or any roof of the Facility or any vestibule, or anywhere outside of the Facility, any sign, lettering, decoration or advertising. All Museum signage shall be at Museum's sole cost and expense. Such signs, lettering, decoration or advertising will only be permitted if in conformity with applicable laws, FIU contractual obligations, University Aesthetic Standards, and other applicable FIU requirements of campus-wide application. Upon the expiration or earlier termination of this Agreement, the Museum shall remove all such signs and other items and repair all damage caused by such removal. Such signs or items shall relate solely to the business of the Museum permitted hereunder and shall be at Museum's sole cost.

G. Security: The design of the Facility shall include specifications for the security in and about the Project Site and the Facility, including limitations on access to the various components and areas of the Facility, and the parties will agree from time to time on the equipment, procedures and regulations to be implemented and maintained in order to secure the Project Site. The Museum shall provide for limited card access control to entry points to the Facility. To the extent the Museum desires any additional security equipment or measures, Museum shall be solely responsible for paying for the costs associated with such security equipment or measures. FIU, however, shall have no liability to the Museum, its employees, agents, invitees or licensees for losses due to theft or burglary, or for damages done by unauthorized persons on the Facility and neither shall FIU be required to insure against any such losses. Each party shall cooperate fully in their joint efforts to maintain security in the Facility and shall follow all regulations promulgated by FIU with respect thereto.

H. Security of Personal Property: Each party shall be responsible for the security of any personal property or information placed in the Project Site by its employees, representatives or invitees. No party shall have any liability to any other party or other agents or invitees with respect to such personal property or information, whether arising by reason of any casualty, damage, theft, loss, disclosure of personnel’s confidential, business or other information, or any other cause.

I. No Smoking Policy: FIU is a non-smoking University and smoking is prohibited everywhere on campus, including the Facility and surrounding areas.

J. Concessions: FIU has the right to operate and receive income from food and beverage concessions, franchises, coin operated equipment or machines of a similar nature that FIU may choose to operate in the Facility at prices established by FIU.

K. Hazardous Substances: No dangerous or hazardous substances shall be located in the Facility, unless handled pursuant to established FIU environmental health and safety protocols or practices. FIU, the Museum or other authorized personnel shall neither conduct nor allow any activity or condition in the Facility that is unlawful, that in FIU’s reasonable judgment increases the risk of harm to any person or the Facility beyond the minimal risk normally associated with activities similar to the uses herein, that would create a nuisance
or trespass, that would disturb, interfere with, or impair the use or operation of the Facility, or that, in any manner, would vitiate the insurance or increase the rate of insurance on the Facility or any part thereof. Prior to the disposal of hazardous substances or materials, the Museum must coordinate with the FIU Environmental Health and Safety Department ("EHS") to ensure that the Museum's process and safety plans comply with FIU EHS requirements. All dispositions of hazardous substances or materials must be completed in compliance with Applicable Laws and FIU Requirements.

L. **Key Control:** At all times during the term of this Agreement, if applicable, the Museum shall abide by FIU's key control policy. The Museum shall not at any time issue keys for or change any locks pertaining to the Facility without the prior written consent of FIU.

M. **FIU Policy:** The Museum acknowledges and agrees that FIU Police Department shall exercise primary police authority over the Project Site and shall have access to the Project Site at all times. If Museum provides for any specific security at the Project Site, any such security efforts shall be coordinated with the FIU Police Department.

N. **Information Technology:** The Museum is solely responsible for providing the Museum's IT services at the Museum's sole cost and expense, subject to the Museum's compliance with the terms herein. However, the Museum shall coordinate with the FIU Division of Information Technology prior to instituting any steps (i.e. installation, access, connection and use) to service the Facility with Information Technology. For purposes of this provision, "Information Technology" includes but may not be limited to: the internet; phone/phone services; and wireless connectivity. The FIU Division of Information Technology at: https://cleanaccess.fiu.edu/handles FIU Information Technology. The Museum shall also be required to abide by all applicable requirements/restrictions pertaining to Information Technology as shown on the FIU Division of Information Technology website.

**VII. INSURANCE**

A. The Museum shall, after the Facility is constructed, obtain and maintain, at its sole cost and expense, policies of insurance covering its activities arising under this Agreement, as follows:

1. **Worker's Compensation and Employer's Liability Insurance:** Worker's compensation insurance shall be obtained in accordance with Chapter 440 Florida Statutes with the prescribed limits of liability for all employees who will be working at the Project Site whether working for the Museum or any subcontractor.

2. **Commercial General Liability Insurance:** Commercial general liability insurance including damage to rented premises, products - completed operations and contractual liability. Limits of coverage shall be at least $1,000,000.00 each occurrence limit for bodily injury and property damage liability, and $3,000,000 aggregate limit. The policy shall carry an endorsement which names the Florida International University Board of Trustees, Florida International University, the State of Florida, the Florida Board of Governors, and their respective trustees, directors, officers, employees and agents named as "Additional Insureds."
policy shall be primary and any insurance carried by FIU shall be non-
contributory.

3. Comprehensive Automobile Liability Insurances: All owned, hired, leased or non-
owned vehicles used by the Museum shall be covered. Policy limits shall be at least $2,000,000.00 each occurrence combined single limit for bodily injury and property damage liability.

4. Property Insurance: Insurance covering all of the Museum’s personal property at the Project Site, including but not limited to furniture and fixtures, machinery, equipment, stock, and any other personal property owned and used by the Museum and found in, on, or about the Facility. Property forms will provide coverage on a broad form basis insuring against "All Risks of Direct Physical Loss."

B. The Museum hereby waives all rights to recover against FIU for any loss or damage to property arising from any cause that would be covered by any insurance required or actually carried under this Agreement. The Museum will cause its insurers to issue appropriate waiver of subrogation rights endorsements, and shall supply FIU with appropriate information from its insurers confirming such waiver to be in effect.

C. All policies of insurance provided for herein shall be issued by insurance companies authorized to do business in the State of Florida and with general policy holder’s rating of not less than A- and a financial rating of not less than Class VIII as rated in the most current available “Best’s” insurance reports. Certificates of insurance shall be delivered to FIU prior to the Museum’s use of the Facility, and thereafter certificates of renewal policies shall be delivered upon expiration of the term of each existing policy. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by the Museum in like manner and to like extent. All policies of insurance shall carry an endorsement to contain a provision that the company writing said policy will endeavor to give to FIU thirty (30) days’ notice in writing in advance of any cancellation or lapse or of any reduction in the amounts of coverage.

D. The Museum shall assist and cooperate in every manner possible in connection with the adjustment of all claims arising out of Museum’s operations within the scope provided for under the Agreement, and shall cooperate in all litigated claims and demands, arising from said operations, which its insurance carrier or carriers are requested to respond.

E. In addition to the insurance required to be obtained and maintained by the Museum, if the Museum assigns any portion of the duties under the Agreement in accordance with the terms thereof, each subcontractor or assignee is required to purchase and maintain insurance coverage that adequately covers each subcontractor’s or assignee’s exposure based on the type of services they are providing in connection with this Agreement.

F. The absence of a demand for any type of insurance certificates or policy or insurance condition or for higher coverage limits shall not be construed as a waiver of the Museum’s obligations to carry and maintain the appropriate types of insurances at limits that are appropriate to the
liability exposure associated with this Agreement. FIU does not represent that coverage and the limits specified herein will necessarily be adequate to cover the Museum’s liability.

G. If the Museum fails to secure and maintain insurance policies complying with the provisions of this Agreement, FIU may terminate this Agreement in accordance with Section XIII A. The Museum shall increase and/or carry such additional insurance which may be required to meet any requirements of applicable laws. FIU recommends that the Museum obtain and maintain a policy of business interruption insurance. In addition, the liability insurance requirements herein shall be reviewed by the parties every five (5) years for the purpose of increasing (in consultation with their respective insurance advisors) the minimum limits of such insurance to limits which shall be reasonable and customary for similar facilities of like size and operation in accordance with generally accepted insurance industry standards.

H. The University shall, after the Facility is constructed, provide the following coverages:

1. Pursuant to Chapter 284, Florida Statutes, and any rules promulgated thereunder, the University, at the University’s expense, shall maintain property coverage from the State Risk Management Trust Fund for property owned by the University.

2. Pursuant to Chapter 284, Part II, Section 768.28, Florida Statutes, and any rules promulgated thereunder, the University, at the University’s expense, shall maintain general liability insurance with limits of liability for bodily injury, property damage and wrongful acts or omissions of not less than US $200,000.00 for each person and US $300,000.00 for each occurrence.

VIII. ANIMAL CARE AT THE FACILITY AND MUSEUM RESEARCH EFFORTS

A. Only animals owned by, or legally in the possession of, the Museum shall be located or housed at the Project Site by the Museum. The Museum shall have the sole and complete responsibility for the use, care and housing of the Museum’s animals at the Project Site at all times and shall be responsible for all costs associated therewith. The Museum will care for and use the animals in ways that are scientifically, technically and humanely appropriate according to state and federal laws and regulations and applicable guidelines. No FIU owned animals will be located at the Project Site.

B. At the Museum’s option and at the Museum’s sole expense, the Museum may seek to obtain and maintain accreditation for the Museum’s operations at the Project Site from the Association of Zoos and Aquariums (AZA) or from any other accrediting body as the Museum desires. The Museum shall be solely responsible for all costs and expenses incurred in relation to obtaining and maintaining any such accreditation and the Museum shall pursue and maintain such accreditations solely as relates to the Museum operations and not in any way whatsoever on behalf of FIU unless FIU agrees otherwise in writing. Should any issues of noncompliance arise that require the Museum to provide reporting to the AZA or to any other accreditation or regulatory body having oversight of the Museum’s animal care, use and housing at the Project Site, the Museum shall provide a copy of such reporting to FIU. The Museum shall take immediate steps to remedy the noncompliance that required the reporting and shall advise FIU of the remediation undertaken. If necessary, FIU shall report
the situation to FIU's own animal care, use and housing regulatory or accreditation bodies.

C. FIU maintains an accreditation from the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC) and holds an Office of Laboratory Animal Welfare (OLAW) Public Health Service (PHS) Assurance, and a United States Department of Agriculture (USDA) Registration. All of the foregoing shall be maintained for FIU's benefit as FIU solely determines and shall not inure to the benefit of the Museum. The Museum is not relying upon any of the foregoing accreditation, assurance or registration in entering into this Agreement.

D. The Museum and FIU shall confer during the development of the plans and specifications for the Facility to ensure that such plans and specifications include items appropriate for the animal holding and care needs of the parties as well as specifications that may be needed to obtain and maintain the AAALAC and AZA accreditations set forth in this Agreement.

E. The FIU contact for discussion with the Museum regarding items pertaining to the animal care and use at the Project Site, including but not limited to, the discussions regarding the Facilities plans and specifications set forth above, shall be ________.

F. Prior to the Museum housing any animals at the Project Site, the Museum and FIU shall confer to ensure that all required processes and approvals are in place as required by FIU policies and procedures for the location of the animals at the Project Site. Once FIU approval for the animal occupancy is granted by FIU, the Museum may move animals in or out of the Project Site as needed by the Museum.

G. All research, research training, experimentation, teaching or biological testing not considered to be routine and generally accepted animal husbandry or veterinary protocols for routine care or for related purposes conducted at the Facility either solely by FIU or jointly by FIU and the Museum shall be conducted only on Museum animals with Museum approval and shall be conducted in accordance with FIU policies and procedures and must have prior approval by the FIU Institutional Animal Care and Use Committee (IACUC) before the same may commence and the same shall be conducted only in accordance with the FIU approved IACUC protocol. For research, research training, experimentation, teaching or biological testing or for related purposes conducted jointly by FIU and the Museum, the Museum's IACUC may also have oversight of the particular project if the parties agree.

H. All research, research training, experimentation, teaching or biological testing not considered to be routine and generally accepted animal husbandry or veterinary protocols for routine care or for related purposes conducted solely by the Museum shall be reviewed and approved by the Museum's IACUC.

I. The personnel who will be responsible for the care and housing of the Museum's animals at the Facility shall at all times be employees of the Museum and the Museum shall have sole and complete oversight of such employees and shall ensure that such employees comply with all regulatory requirements, including but not limited to OSHA requirements.
J. In the event that there is a Force Majeure event, the Museum will have sole responsibility for the appropriate housing or transportation of its animals at or from the Project Site and shall solely be responsible for all costs associated with the same.

K. Notwithstanding anything to the contrary in this Agreement, the Museum staff and invitees will not have access to the portion of the Project Site used solely by FIU for FIU’s animals except in accordance with FIU policies and procedures or as permitted by authorized FIU personnel.

L. FIU’s IACUC will conduct semi-annual reviews and inspections of the areas at the Project Site that involve FIU related animal research, research training, experimentation, teaching, or biological testing to ensure that the same does not negatively impact FIU’s AAALAC accreditation, OLAW PHS Assurance or its USDA Registration. Should FIU discover any matter during such reviews that could negatively impact FIU, then FIU shall communicate the same to the Museum and the parties shall confer to remedy the matter. If the matter cannot be remedied to the parties’ mutual satisfaction, then the Museum shall refrain from continuing with the noncompliance until an opinion from the appropriate regulatory or accreditation body may be obtained. The Museum shall abide by the determination of such regulatory or accreditation body unless such determination conflicts with the Museum’s existing permit requirements, accreditation standards or governing regulatory agency requirements which will govern the care of the animals under the Museum’s control and ownership.

M. Collaborative Research between FIU and the Museum or Third Party Funding Proposals.

1. FIU and the Museum agree to work with each other to effectively and efficiently identify, analyze and explore collaborative research efforts in technical areas that further each other’s missions.

2. The parties intend to notify each other of projects on which they can collaborate and provide each with the necessary information and support reasonably requested by the other party to facilitate the purposes of this Agreement. Nothing contained in this Agreement shall limit the right of either FIU or the Museum to enter into research or other agreements either individually or with third parties for any work.

3. Except as set forth in this Agreement, each party shall bear its own costs for its research efforts with respect to this Agreement and no party shall provide any monetary support to any other party relative to any research efforts except as may be set forth in a separate research agreement between the parties.

4. To the extent that the Museum and FIU identify third party funding opportunities for collaborative research efforts that are of mutual interest, the parties will mutually determine the manner in which to pursue any such proposal effort. To the extent that the parties agree to pursue research between themselves without any external funding, they shall, for each such research project, mutually determine the manner in which the research project shall be pursued and the
parties, if deemed appropriate, shall enter into a separate research agreement for the same.

N. Intellectual Property

1. "Intellectual Property" means all inventions, discoveries, processes, methods, compositions, formulae, procedures, protocols, techniques, results of experimentation and testing, information and data, whether patentable or not, patents, designs (whether registered or unregistered and including semiconductor topographies), utility models, copyright and database right, trademarks and service marks (whether registered or unregistered), trade names and domain names, trade secrets rights in goodwill, rights in unpatented know-how, rights of confidence and any other intellectual or industrial property rights of any nature including without limitation all rights to the grant of and applications for the same and all renewals, reissuses, extensions, divisions and continuations of them, together with all similar and analogous rights throughout the world for their full term.

2. "Pre-existing Intellectual Property" means, individually and collectively, all Intellectual Property in existence prior to the execution date of this Agreement. The parties agree that any Pre-existing Intellectual Property of each party shall remain the property of that party. This Agreement shall not be construed as implying that any party shall have the right to use Pre-existing Intellectual Property of any other party.

3. If the parties pursue collaborative research efforts as set forth in this Agreement, Intellectual Property that derives from such efforts shall be owned by the parties as follows unless agreed to otherwise by the parties in writing for a particular research project: Intellectual Property made solely by FIU faculty and staff shall be owned solely by FIU. Intellectual Property made solely by the Museum staff shall be owned solely by the Museum. Intellectual Property made jointly by the Museum and FIU faculty and staff shall be owned jointly by the Museum and FIU who will negotiate their respective rights and obligations with reference to the commercialization of such joint intellectual property. The foregoing rights are subject to the rights of the U.S. Government in the event federal funding is provided for the research project.

IX. FIU'S DESIGNATION AS A PRIMARY ACADEMIC PARTNER OF MUSEUM

The Museum agrees to recognize FIU as a primary academic partner of the Museum. Nothing herein shall preclude the Museum from working with other academic institutions and recognizing them as partners on those specific projects, or FIU from working with other museums and recognizing them as partners on those specific projects. Recognition to FIU will be provided in the Museum’s promotional and collateral materials, wherever FIU content or research is being demonstrated or displayed, and at the Museum Park Project and the Project Site. The Museum shall also include FIU research in Museum exhibits and
related programming consistent with professional museum standards and the parties' intent as set forth more fully in Exhibit B.

X. REPRESENTATIONS

The parties represent that each of them have full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and such execution, delivery and performance has been duly authorized by all necessary corporate action. Each of the parties represents to the other that the individual executing this Agreement on behalf of such entity has been authorized by all required corporate authority to execute this Agreement and bind such entity. This Agreement constitutes the valid and legally binding obligation of the Museum, FIU and the Foundation, and is enforceable in accordance with its terms.

XI. ADMINISTRATION

A. To the extent the contribution of the Museum of the costs and expenses associated with the development and construction of the FIU Property is deemed a gift, the Foundation will serve as recipient of the gift in accordance with and subject to the terms outlined herein. Under Internal Revenue Code sections 170(b)(1)(A), 170(c), 2055, and 2522, those making contributions to the Foundation are entitled to a charitable contribution deduction to the extent applicable.

B. The Foundation shall administer all new cash gifts raised by or for the benefit of FIU and/or its activities to be conducted at the Facility after the effective date of this Agreement in accordance with Foundation policies as may be amended from time to time, including, but not limited, to the Foundation’s Advancement Initiative policy.

XII. DAMAGE OR DESTRUCTION; CHANGE IN CIRCUMSTANCES

A. If any portion of the Project Site, or any furnishings or fixtures installed therein, are destroyed or damaged in whole or in part by any Force Majeure event or casualty, FIU shall give the Museum prompt notice thereof. FIU shall undertake to repair, replace or rebuild the same with a structure of substantially the same character and condition as existed immediately prior to such occurrence if insurance coverage is available for that purpose. For purposes of this Agreement, “Force Majeure” shall mean any interruption, failure, inability, or delay in performing hereunder, due to, without limitation, acts of God (such as a storm, flood or other natural disaster), acts of any government, war or other hostility, acts of terrorism or vandalism, civil disorder, the elements, fire, explosion, power failure, equipment failure, labor dispute or threat thereof, embargo, casualty, accident, change in law or other significant occurrence beyond the University’s reasonable control such that the obligations set forth herein cannot be carried out.

B. All insurance proceeds derived and collected from an insurance carrier required by this Agreement for purposes of restoration or rebuilding of the Facility shall be applied to the restoration and rebuilding of the Facility or FIU Property and any furnishings and fixtures thereon subject to the same design and construction requirements set forth in this Agreement.
If insurance proceeds are insufficient for proper or effective repair, replacement or rebuilding, FIU shall have no obligation to rebuild the Facility or FIU Property.

C. As FIU’s institutional needs and requirements may evolve over time, the circumstances may require for the Facility to be administered by a new or different academic unit within FIU. In addition, if necessary, FIU may reduce or discontinue its academic or other FIU programs at the Facility and make reasonable and appropriate changes in its operation or use of the Facility; provided, however, no such changes may impede or otherwise adversely affect the operation or use of the Facility by the Museum without its prior written consent.

D. In the event that the Facility cannot be used as contemplated herein because of a Force Majeure event or if the Museum can no longer use the Facility due to any Museum-related budgetary constraints, or for other substantial and lawful reasons the Facility’s use covenants cannot be accomplished, then the parties agree that to rectify the situation FIU may, consistent with applicable laws, use the Facility for the most closely related educational, research or outreach purposes consistent with the uses specified herein; provided, however, that the parties shall first confer to explore any mutually acceptable options to permit the Museum’s continued operation or use of the Facility to the extent of the Museum’s ability to fund its obligations under this Agreement.

XIII. DEFAULT

A. Events of Default. Each of the following shall be an "Event of Default":

1. If FIU or the Museum shall fail to pay any sum when it is due and payable under this Agreement for a period of thirty (30) days after receipt of written notice thereof from FIU.

2. If FIU or the Museum shall fail to observe or perform one or more of the material terms, conditions, or covenants of this Agreement and such failure shall continue for a period of sixty (60) days after receipt of written notice thereof specifying the failure or breach.

B. Remedies. If an Event of Default shall occur under this Agreement, the party to whom the obligation is owed may at any time thereafter give written notice to the breaching party and demand full performance of the Agreement. Should the defaulting party fail to cure within the time provided, then the party to whom the obligation is owed may declare the Agreement to be in breach and exercise its rights to terminate this Agreement. The exercise of rights under this section shall not be deemed to waive any rights which any party would have in law or equity to recover damages, payments of past due amounts or injunctive relief.

XIV. GENERAL PROVISIONS

A. This Agreement and the rights and obligations herein may not be assigned by any party without the prior written consent of the other Parties and any attempted assignment without such prior written consent shall be null and void.

B. Each party shall assume any and all risk of loss or damage attributable to the negligent acts or omissions of that party and its officers, employees, and agents thereof. The Museum shall indemnify, defend and hold FIU and the Foundation harmless from all claims, actions,
damages, liability and expenses (including reasonable attorneys' fees and court costs) arising from the negligence or willful misconduct of the Museum and/or its officers, agents, contractors, employees, or invitees in performing Museum's obligations under this Agreement. Solely to the extent permitted by Fla. Stat. 768.28 and the limitations therein and without waiving any rights or defenses thereunder. FIU shall indemnify, defend and hold harmless the Museum from all claims, actions, damages, liability and expenses (including reasonable attorneys' fees and court costs) arising from the negligence or willful misconduct of FIU and/or its trustees, officers or employees in performing its obligations under this Agreement. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

C. This Agreement does not authorize any party to do business under any name belonging to any other party, or to make any representations on behalf of or purporting to bind any other party, or to enter into any contracts or agreements of any type in the name of, or on behalf of, any other party. No party is empowered to state or simply imply, either directly or indirectly, that it or its activities, other than pursuant to the limited activities contemplated herein, are supported, endorsed or sponsored by any other party and, upon the direction of the non-declaring party, shall issue express disclaimers to the effect. Nothing herein shall be construed to place the parties in the relationship of partners or joint ventures, nor shall any similar relationship be deemed to exist between them.

D. This Agreement shall be effective upon signature by all parties and shall remain in effect unless terminated earlier as set forth herein.

E. The laws of the State of Florida shall govern the validity, interpretation, performance and enforcement of this Agreement, and venue for any actions brought hereunder shall be in the state courts located in Miami-Dade County, Florida.

F. In the event that any provision contained in this Agreement is for any reason held to be invalid or unenforceable, such provision shall be ineffective to the minimum extent of such invalidity or unenforceability, and the remainder of this Agreement will remain valid and enforceable according to its terms with respect to all other circumstances.

G. This Agreement shall be binding upon and inure to the benefit of the parties and their trustees, successors, and assigns or other representatives. This Agreement is for the sole benefit of the parties and does not confer any rights on any third party.

H. This Agreement represents the entire agreement between the parties and supersedes all prior oral or written statements or agreements. This Agreement may not be amended or modified except by a subsequent written instrument duly executed by the parties.

I. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year written below.

THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES

By: ___________________________

Kenneth G. Furton
Dean, College of Arts & Sciences

FLORIDA INTERNATIONAL UNIVERSITY FOUNDATION, INC.

By: ___________________________

Howard R. Lipman
President and CEO, Florida International University Foundation, Inc.

MUSEUM OF SCIENCE d/b/a
PATRICIA AND PHILLIP FROST
MUSEUM OF SCIENCE

By: ___________________________

Gillian Thomas
Executive Director
President & CEO
Museum of Science
d/b/a the Patricia and Phillip Frost Museum of Science

THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

By: ___________________________

Douglas Wartzok
Provost and Executive Vice President
Exhibit B
Patricia and Phillip Frost Museum of Science
Bachelor Environmental Center at FIU

The parties contemplate that their collaboration may encompass the educational, research and outreach programmatic activities outlined herein, or any other such uses of the Facility or activities otherwise agreed-upon by the parties. This program statement shall serve as a guide to the parties as they develop their collaboration and work plans, with all planned activities at the Facility to be negotiated annually by the Advisory Committee based on the parties’ needs as they may evolve over time.

Academic Program: The parties anticipate that the collaboration will include research, teaching, and engagement activities both at the Museum Park Project and at the Facility.

Programs at the BBC Facility: The Facility will provide FIU students a unique opportunity to gain hands-on experience with large marine animals and large birds. As such, it will attract outstanding students who would not normally consider FIU and provide experiences for pre-vet students with exotic animals that are rarely available on college campuses. The partnership will also provide space for four new Professional Science Masters. Specific anticipated uses include:

1. Immediately upon completion of the center, FIU anticipates using the 24-seat indoor and outdoor classrooms for at least 30 undergraduate course lab meetings each semester for both science majors (Biology II, Ecology, Invertebrate Zoology, Marine Biology and Oceanography, Evolution) and non-majors (Marine Biology).
2. Immediately upon completion, the parties shall endeavor to place at least 12 undergraduate interns in animal care and outreach at the Facility.
3. Immediately upon completion, SEAS EcoAcademy may be expanded to be a joint Museum-FIU program and use the facility 2-5 days a week for its summer camp programs. During the school year, SEAS current engagement activities will occur in the Facility at least for a half-day each week. SEAS will incorporate FIU research into museum outreach programs - with joint programs serving one school group per school day at the facility during the school year.
4. Immediately upon completion, SEAS research on shark physiology and behavior will commence with other research projects for undergraduate and graduate students being developed.
5. Within 3 years of the Facility’s completion, FIU may use the classroom to support a new Professional Science Masters in Marine Policy and Management, with up to two cohorts of 24 students each using the classroom and facility concurrently.
6. Within 3 years of the Facility’s completion, FIU envisages use of the classroom to support one half of a PSM in Applied Conservation Biology (the classroom portion taught at the museum), with up to one cohort of 24 students per session.

Programs at the Museum Downtown
1. Immediately upon completion of the Museum Park Project, FIU anticipates operating a PSM in Environmental Policy and Management at the downtown museum. FIU projects two cohorts of 25.
2. To the extent possible, the parties will seek to place approximately 20 FIU undergraduates as science communication interns to interact with museum visitors, with 10 other interns to be placed in other sections of the Museum.

3. FIU will develop interpretative materials that highlight FIU research in areas of hurricane research (Olson, Zhang, IHRC), aquaponics and sustainable agriculture (Jayachandran, Bhat, vonWettberg), coastal marine ecosystems/Aquarius (Fourquarean, Burkepile, Bracken-Grissom, Boswell), shark and coral reef biology (Heithaus, Burkepile, Lanetty, Richardson), the Everglades (Crowl, Gaiser, Trexler, SERC), Science communication and broadcasting (Pinto, Reiss, Heithaus).

4. FIU and the Museum expect to seek funding and develop traveling science exhibits that can tour science museums across the country and world.

5. Within 5 years, SEAS and SJMC expect to develop a Professional Masters in Science Communication, to be offered at the Museum.
The Frost Museum of Science is a not-for-profit corporation located in Miami.
The Museum of Science is contributing to FIU $5 Million through a donation from The Batchelor Foundation, Inc. for the construction of a LEED registered two-story 3,000 gross square feet building and 72,000 square feet of outdoors aviaries on a parcel of land containing approximately 75,000 square feet located on the North Side of FIU’s Biscayne Campus.

The Facility will be used by FIU for its educational purposes and by the Museum for its animal care needs.

The Facility will be known as the Batchelor Environmental Center at FIU.
• The Museum will have the use of the site and facility for 30 years with renewal upon mutual agreement.
• FIU will own the Facility and the Museum will cover all Museum ongoing operating and maintenance expenses; FIU is responsible for its academic programming costs.
• The Facility will provide FIU students a unique hands-on experience with large and exotic marine animals and birds.
• The collaboration will provide classroom space for four new Professional Science Masters programs.
• The Museum will recognize FIU as the primary academic partner and will display University’s promotional, collateral materials and research.
• The Museum will provide FIU space at its new Museum Park Facility in Downtown Miami.
BBC Site Plan
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The Florida International University Board of Trustees

June 3, 2014

Subject: Approval of Gift of Real Property and New Educational Site

Proposed Board Action:

The Florida International University Board of Trustees hereby approves the National Tropical Botanical Garden (“NTBG”) Gift Agreement and Joint Operating Agreement; delegates to the University President the authority to finalize all exhibits and execute all documents related thereto; and approves the construction and establishment of the International Center for Tropical Botany (the “ICTB”) facility in Miami, Florida as a “special purpose center” of Florida International University.

Background Information:

The NTBG is a Congressionally-chartered non-profit 501(c)(3) charitable organization created by 36 U.S.C. § 153501 et. seq. The NTBG operates a botanical garden known as The Kampong located at 4013 Douglas Road in Coconut Grove, Miami, Florida 33133.

The NTBG desires to convey to FIU three lots located adjacent to The Kampong (the “Property”), for the purpose of constructing the ICTB Building consistent with the Joint Operating Agreement dated April 9, 2014 and FIU Academic Plan attached hereto. The University will fund the construction of the facility through a generous $5 million donation equally divided between and received from the Batchelor Foundation, Inc. and the William R. Kenan, Jr. Charitable Trust for the specific purpose of construction.

The mission of the ICTB is to study tropical plants and the resources they provide; to develop solutions that ensure the conservation and sustainable use of tropical plants in order to preserve tropical plant diversity for posterity; and to provide research-based knowledge and tools to preserve and sustainably use tropical plants; and to foster programs to educate future generations of tropical plant biologists. In addition, the collaboration with the NTBG will make available to students and faculty access to the garden of The Kampong as well as the other four NTBG gardens located in Hawaii for individual and joint research and teaching opportunities.

In accordance with BOG Regulation 8.009(3)(d) and FIU Regulation FIU-116(3)(B)(2), consultation with the SUS Chancellor regarding the designation of the ICTB site as a Special Purpose Center took place on May 14, 2014.

Legal Authority:

BOG Regulation 1.001(7)(b) provides in pertinent part: “[e]ach board of trustees shall have the authority to acquire real and personal property and contract for the sale and disposal of same.”

Florida Statute 1013.74(2)(a) provides the University Board of Trustees with the authority to approve the following fixed capital outlay projects: “Construction of any new buildings, or
remodeling of existing buildings, when funded from nonstate sources such as federal grant funds, private gifts, grants, or lease arrangements if such grants or gifts are given for the specific purpose of construction.”

Florida Board of Governors (BOG) Regulation 8.009(1)(c) defines a “special purpose center” as “a unit of a university, apart from the main campus, that provides certain special, clearly defined programs or services, such as research or public service, and reflects a relatively permanent commitment by a university for the foreseeable future, not an occasional, time-limited, or transitory activity, in facilities which are university-owned, university-leased, or jointly used with another public institution.”

BOG Regulation 8.009(3)(d) and FIU Regulation FIU-116(3)(B)(2) each provide that “[e]stablishing, reclassifying, relocating, or closing an additional campus or special purpose center, including acquiring real property for such educational sites, shall be approved by the [Board of Trustees] and, subsequently, the Board of Governors.”

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**Supporting Documentation:** Gift Agreement, Joint Operating Agreement between the NTBG and the FIU Board of Trustees, Due Diligence Review, and International Center for Tropical Botany proposal.

**Facilitator/Presenter:** Douglas Wartzok
GIFT AGREEMENT

THIS GIFT AGREEMENT ("Gift Agreement" or "this Agreement") is entered into as of April 9, 2014, by and between National Tropical Botanical Garden ("NTBG"), The Florida International University Foundation, Inc. ("Foundation"), and The Florida International University Board of Trustees ("FIU" or "University") (collectively, "the Parties").

WHEREAS, NTBG is a public nonprofit corporation created by act of the United States Congress and a charitable organization operating under Section 501(c)(3) of the Internal Revenue Code ("Code"); and

WHEREAS, FIU is a public research university located in Miami-Dade County existing as a public body corporate of the State of Florida; and

WHEREAS, Foundation is a charitable, direct-support organization of FIU, operating under Section 501(c)3 of the Code for the benefit of FIU and its College of Arts & Sciences; and

WHEREAS, in accordance with that document entitled "Points of Understanding" dated April 9, 2013 ("POU") and the Joint Operating Agreement executed on April 9, 2014 ("JOA"), the Parties desire to establish an International Center for Tropical Botany ("ICTB") to be designated as an academic center of FIU under its College of Arts & Sciences, subject to FIU policies and procedures governing approval and operation of academic centers and Florida Board of Governors Regulation 8.009 governing the establishment of university educational sites; and

WHEREAS, the mission of the ICTB is to study tropical plants and the resources they provide; to develop solutions that ensure the conservation and sustainable use of tropical plants in order to preserve tropical plant diversity for posterity; and to provide research-based knowledge and tools to preserve and sustainably use tropical plants; and to foster programs to educate future generations of tropical plant biologists ("the ICTB Mission"); and

WHEREAS, NTBG desires to convey to the University that certain real property located adjacent to "The Kampong," the historic Fairchild/Sweeney house and garden owned by NTBG, and described more fully in Exhibit A hereto (the "Property") for the
construction and operation of the ICTB structures (collectively, the "Building") within Lot 1 & 2, where Lot 3 will be used as prescribed in Exhibit B hereto, of the Property in accordance with the JOA; and

WHEREAS, FIU and Foundation desire that the University accept the Property for the purposes set forth in this Gift Agreement and the JOA;

NOW THEREFORE, the Parties agree as follows:

1. Agreement to Convey and Accept the Property.

1.1. Agreement to Convey and Contingencies. NTBG agrees to convey title to the Property by Special Warranty Deed (the "Deed") to University and University agrees to receive and accept title to the Property, subject to and contingent upon the satisfaction of each of the following conditions: (i) completion of due diligence for the Property as the University in its sole discretion shall determine to be appropriate, including such title examination as it deems appropriate to satisfy itself that title to the Property is acceptable; (ii) approval of all agreements related to the ICTB collaboration by the Board of Trustees of NTBG, the Board of Directors of the Foundation, and the Board of Trustees of FIU, as necessary; (iii) any approval that may be required by the Florida Board of Governors; and (iv) any other governmental or regulatory approvals that may be required (collectively the "Contingencies"). In the event that any of the Contingencies are not satisfied, this Gift Agreement and the POU shall be null and void and the Parties shall have no further obligations or liabilities hereunder.

1.2. Agreement to Build and Operate ICTB. Foundation agrees that the University will design, construct, maintain and operate the Building on the Property in accordance with this Gift Agreement, the JOA, applicable law and use restrictions relating to the Property. University and Foundation agree that the Property shall be used exclusively in furtherance of the accomplishment of the ICTB Mission.

1.3. Taxes and Closing Costs. All out-of-pocket costs associated with: (i) the transfer of legal title to the Property from NTBG to University (including documentary stamp taxes, Miami-Dade County taxes, surveys, environmental or other studies, and professional fees for planners,
architects, and legal counsel), and (ii) the acquisition of the required permits and governmental approvals that may be necessary will be paid by Foundation or FIU from donations made for the Building or funds identified by the Dean of the FIU College of Arts & Sciences, provided, however, that except as set forth herein, the Parties shall otherwise bear their own attorneys fees and costs.

2. Recognition.

In consideration of the gift of the Property, NTBG shall be recognized as an equal collaborator of the ICTB. Recognition shall include entry signage, marketing, publicity and professional citations related to research, where appropriate. The ICTB Building will display at its principal entrance signage that prominently states: "The International Center for Tropical Botany at The Kampong, a collaboration of Florida International University and the National Tropical Botanical Garden." This signage will be a permanent feature and will be prominently displayed so long as the ICTB building is used by FIU.

3. Representations.

3.1. Corporate Authority. The Parties represent that each of them has full corporate power and authority to execute and deliver this Gift Agreement and to perform its obligations hereunder, and such execution, delivery and performance has been duly authorized by all necessary corporate action.

3.2. Authorized Execution and Binding Effect. Each of the Parties represents to the other that the individual executing this Agreement on its behalf has been authorized by all required corporate authority to execute this Agreement and bind such Party and that this Agreement constitutes its valid and legally binding obligation and is enforceable in accordance with its terms.

4. Administration.

4.1. Deductible Gifts. University will serve as recipient of the gift of the Property in accordance with and subject to the terms outlined herein. The University and Foundation are each tax-exempt organizations under the Internal Revenue Code, and those making contributions to the University
or Foundation are entitled to a charitable contribution deduction to the extent applicable.

4.2 Gift Policies. Foundation shall administer all new cash gifts raised by or for the benefit of the ICTB or the Property after the effective date of this Agreement in accordance with Foundation policies, including Foundation’s Advancement Initiative policy, as they may be in effect from time to time.

5. Change in Circumstances; Right of Reverter.

5.1. Change of Academic Unit. The Parties recognize that FIU’s academic structure and institutional needs and requirements may evolve over time, and it may become necessary for the ICTB to be administered by a different academic unit of FIU.

5.2. Changes in Operation. To the extent necessary to respond to a Force Majeure event or Budgetary Constraints, FIU may reduce or discontinue academic or other programs at the ICTB and make reasonable and appropriate changes in the operations of the ICTB, provided, however, that the Property shall be used only for purposes that are consistent with the ICTB Mission and the Charter of NTBG.

5.3. Closure and Reverter. In the event that FIU determines that a permanent closure of the Building is necessary to respond to a Force Majeure event or Budgetary Constraints, or if FIU determines it could no longer use the Property in support of the ICTB Mission, then ownership of the Property and the Building shall revert to NTBG; and FIU at that time shall promptly execute any and all documents reasonably requested by NTBG to facilitate the reversion and convey title to the Property and Building, free of any FIU-caused lien or encumbrance, to NTBG.

5.4. Deed Restrictions. The Deed conveying title to the Property from NTBG to University shall include provisions satisfactory to NTBG which (i) reflect the foregoing use limitations and restrictions and (ii) provide for reversion of title to NTBG as specified herein.

5.5. Definition of "Force Majeure." The term "Force Majeure" shall mean acts of God (such as storm, flood or other natural disaster), acts of any government, war or other hostility, acts of terrorism or vandalism, civil
disorder, the elements, fire, explosion, power failure, equipment failure, labor dispute or threat thereof, embargo, casualty, accident, change in law or other significant occurrence beyond the reasonable control of the Parties.

5.6. **Definition of "Budgetary Constraints."** The term "Budgetary Constraints" shall refer to financial limitations imposed on ICTB operations by extraordinary circumstances outside the control of FIU or Foundation. Budgetary Constraints will be deemed to be applicable if ICTB operating expenses exceed the total of all revenues, donations and spendable endowment earnings generated by or for the benefit of the ICTB for a period of three years, and reasonable efforts by FIU and Foundation to reduce operating expenses and increase revenues, donations and spendable endowment have proved to be unsuccessful.

6. **Miscellaneous Considerations.**

6.1. **Sources of Funding for Capital Expenditures.** The Parties anticipate that third-party donations will be the source of funds for all capital expenditures for improvements and construction of the ICTB and that they will not seek any funds for capital improvements or construction of the ICTB from sources other than third-party donations. In the event that circumstances should change and non-donated funds should become available from the State of Florida or other sources for ICTB capital improvements or construction, and the terms appear to be advantageous to the ICTB, the Parties acknowledge that at that future time it may then be appropriate for them to amend this agreement with the addition of mutually satisfactory terms and conditions to be negotiated by the Parties that will take into account the changed circumstances and the terms and availability of the non-donated funds. This paragraph constitutes a non-binding statement of the intent of the Parties.

6.2. **Indemnification.** NTBG shall indemnify, defend and hold FIU and Foundation harmless from all claims, actions, damages, liability and expenses (including reasonable attorneys' fees and court costs) occasioned wholly by any wrongful act or omission of NTBG, its officers, agents, contractors, employees, or invitees in relation to this Agreement. The terms of this Section shall survive the expiration or earlier termination of this Agreement. Solely to the extent and limits permitted by Florida
Statute 768.28 and the limitations therein and without waiving any rights or defenses, FIU shall indemnify, defend and hold NTBG harmless from all claims, actions, damages, liability and expenses (including reasonable attorneys’ fees and court costs) occasioned wholly by any wrongful act or omission of Foundation, FIU, or their respective officers, agents, contractors, employees, or invitees in relation to this Agreement.

6.3. **Governing Law.** This Agreement will be construed in accordance with the laws of the State of Florida. In the event of any action arising under this Agreement, the venue of such action shall lie exclusively within the state or federal courts of Florida located in Miami-Dade County, Florida, and the Parties hereto specifically waive any other jurisdiction and venue.

6.4. **Severability.** In the event that any provision contained in this Gift Agreement is for any reason held to be invalid or unenforceable, such provision shall be ineffective to the minimum extent of such invalidity or unenforceability, and the remainder of this Agreement will remain valid and enforceable according to its terms with respect to all other circumstances.

6.5. **Binding Effect.** This Gift Agreement shall be binding upon and inure to the benefit of the Parties and their trustees, successors, and assigns or other representatives; provided, however, that no Party shall assign any interest to an entity not affiliated with that Party without the consent of all Parties.

6.6. **Entire Agreement.** This Gift Agreement and the JOA represent the entire agreement of the Parties and supersedes all prior oral or written statements or agreements. This Agreement may not be amended or modified except by a subsequent written instrument duly executed by the Parties.

6.7. **Counterparts.** This Gift Agreement may be executed in two or more counterparts, each of which shall be deemed an original, together constituting one and the same instrument.
IN WITNESS WHEREOF, the Parties hereto have caused this Gift Agreement to be executed effective as of the day and year first written above.

FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

By: 
Kenneth G. Furton, 
Dean, College of Arts & Sciences

By: 
Douglas Wurtzok, 
Provost and Executive Vice President

NATIONAL TROPICAL BOTANICAL GARDEN

By: 
Charles Wichman, Jr., 
Executive Director and Chief Executive Officer

FLORIDA INTERNATIONAL UNIVERSITY FOUNDATION, INC.

By: 
Howard R. Lipman, 
President and Chief Executive Officer 
Florida International University Foundation, Inc.
Exhibit A
Legal Description

Parcel 1
Lots, 1, 2 and 3, of PLAT OF HISSAR, according to the map or plat thereof, as recorded in Plat Book 85, Page 4, of the Public Records of Miami-Dade County, Florida.

Parcel 2
All appurtenant easement rights over Lot 10 in favor of Lots 1, 2 and 3, of PLAT OF HISSAR, according to the map or plat thereof, as recorded in Plat Book 85, Page 4, of the Public Records of Miami-Dade County, Florida, including perpetual rights of ingress and egress.
AMENDMENT OF RESTRICTION

This Amendment of Restriction made this 19th day of July, 1976, by and between CAROL GROSVENOR MYERS, a single woman, whose address is 3774 Douglas Road South, Coconut Grove, FL 33133 (hereinafter called "Myers") and NATIONAL TROPICAL BOTANICAL GARDEN, a corporation chartered by the United States Congress, whose address is c/o Michael J. Shea, Esquire, 1275 Pennsylvania Avenue, N.W., Washington D.C. 20004-2404 (hereinafter called "NTBG").

WITNESSETH

WHEREAS, by Warranty Deed dated March 3, 1973, and recorded in Official Records Book 1S832, Page 5411, Public Records of Dade County, Florida, Myers conveyed to The Kampong Fund, a Washington not for profit corporation ("Fund"), certain real property described therein (the "Property"), subject to the following (the "Restriction")

Subject to conditions, restrictions and easements of record except as otherwise provided herein, Lot 3 of PLAT OF HISSAR, according to the Plat thereof, as recorded in Plat Book 88, Page 4, Public Records of Dade County, Florida. ("Lot 3") may be used for single family residential purposes only. Lot 3 may also be used for botanical garden purposes provided such use (i) is in conjunction with and similar to the operation of the botanical garden (currently known as The Kampong) on the adjoining property to the south of Lot 3, and (ii) such botanical garden is operated and maintained as a garden for educational and scientific purposes only and is not open to the general public. No activity of an offensive, noxious, dangerous or noisy nature shall be conducted on Lot 3 except for such activity made necessary for the construction or reconstruction of improvements for uses permitted herein.


WHEREAS, Myers and NTBG desired to amend the Restriction in certain respects as more particularly set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which
is hereby acknowledged, Myers and NTBG hereby agree that the restriction is hereby amended to read as follows:

Subject to conditions, restrictions and easements of record. Except as otherwise provided herein, Lot 3 of PLAT OF HISSAR, according to the Plat thereof, as recorded in Plat Book 85, Page 4, Public Records of Dade County, Florida, ("Lot 3") may be used for single family residential purposes only. Lot 3 may also be used for botanical garden purposes provided such use (i) is in conjunction with and similar to the operation of the botanical garden (currently known as The Kampong) on the adjoining property to the south of Lot 3, and (ii) such botanical garden is operated and maintained as a garden for educational and scientific purposes only. Admission of the general public to Lot 3 in connection with the operation of such botanical garden shall only be upon rules and regulations established by NTBG which provide for the admission of the general public to Lot 3 on terms and conditions which will avoid overcrowding and insure its peaceful and quiet use and enjoyment by those who have been admitted. No activity of an offensive, noxious, dangerous or noisy nature shall be conducted on Lot 3 except for such activity made necessary for the construction or recondition of improvements for uses permitted herein.

Other than as expressly amended by this Amendment, the restriction is hereby ratified and confirmed as in full force and effect.

IN WITNESS WHEREOF, Myers and NTBG have executed this Agreement as of the date first set forth above.

Signed, sealed and delivered in the presence of:

Carol Grosvenor Myers

R. Fisher Hudson

Ann Marie Mackay

Elizabeth A. Hodges

E. Hageman

F. I. A. Pellegrino

M. J. Shea

By: Douglas M. Kenney

Secretary

Chairman of the Board

National Tropical Botanical Garden
The foregoing instrument was acknowledged before me this 19th day of August, 1996, by CAROL GROSVENOR MYERS, who is (notary choose one) [ ] personally known to me or who [ ] has produced ____________________ as identification.

My Commission Expires

Notary Public
Name
Commission/Serial No

The foregoing instrument was acknowledged before me this 29th day of October, 1996, by Douglas M. Kinney, as Chairman of the Board of NATIONAL TROPICAL BOTANICAL GARDEN, a corporation chartered by the United States Congress, on behalf of the corporation. He is (notary choose one) [ ] personally known to me or [ ] has produced [ ] WA Driver's License as identification.

Michael J. Shea, as Secretary

Notary Public
Name
Commission/Serial No
Return to: (enclose self-addressed stamped envelope)
Name: ELLEN A. FRIEBERG, EPSG
4000 Southeast Financial Center
Miami, Florida 33131

THIS INSTRUMENT PREPARED BY:
LESLIE D. MILLEDE, JR., ESQ.
618 W. 76th Street
Miami, Florida 33143

Folio Number(s): 01-4120263600
Gmtb(ers) B. S. 3/0:

52

OFF. RE. 15832PG5431

WARRANTY DEED

THIS WARRANTY DEED made this 13 day of March, 1993, by
CAROL GROSVENOR MEARS, a single woman, hereinafter called the grantor, to
THE KAMPONG FUND, a Washington not for profit corporation
hereinafter called the grantee:

c/o William W. Muller, Esquire, 4000 Southeast Financial Center, Miami, Florida 33131

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this
instrument and the heirs, legal representatives and assigns of individuals, and the successors and
assigns of corporation)

WITNESSETH: That the grantor, for and in consideration of the sum of $10.00 and other
valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells,
transfers, conveys and assigns unto the grantee, all that certain land situate in
Dade County, Florida, viz:

Lot 3 of PLAT OF HISSAR according to the list thereof as recorded in Plat Book 85,
at Page 4, of the Public Records of Dade County, Florida, together with all
appurtenant easement Rights over Lot 10 of PLAT OF HISSAR, according to the Plat
thereof, recorded in Plat Book 85 at Page 4, Public Records of Dade County, Florida.

Subject to covenants, restrictions and easements of record except as otherwise
provided herein, Lot 3 of PLAT OF HISSAR, according to the Plat thereof, recorded in
Plat Book 85 at Page 4, Public Records of Dade County, Florida. (Lot 3) may be used
for single family residential purposes only, Lot 3 may also be used for botanical
purposes provided such use (ii) is in conjunction with and similar to the
operation of the botanical garden (currently known as The Kampo) on the adjoining
property to the south of Lot 3, and (iii) such botanical garden is operated and
maintained as a garden for educational and scientific purposes only and is open to
the general public. No activity of an offensive, noxious, dangerous or noisy
nature shall be conducted on Lot 3 except for such activity made necessary for the
construction or reconstruction of improvements for uses permitted herein.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in
anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

And for the further assurance of the grantee hereby covenants with said grantor that the grantor is lawfully seized of
said land in fee simple; that the grantor has good right and lawful authority to sell and convey said
land; that the grantor hereby fully warrants the title to said land and will defend the same against
the lawful claims of all persons whatsoever, and that said land is free of all encumbrances, except
taxes accruing subsequent to December 31, 1992.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year
first above written.

SIGNED, sealed and delivered in our presence

(\)

ATTORNEY AT LAW

Printed Signature

Carroll Grosvener Mears

Printed Signature

3979 Douglas Road South
Post Office Address

Printed Signature

LEWIS D. MILLEDE, JR.

Printed Signature

STATE OF FLORIDA
COUNTY OF Dade
The foregoing instrument was acknowledged before me this 3 day of March, 1993, by

CAROL GROSVENOR MEARS

(\) who is personally known to me
or
(\) who has produced
(type of identification) as identification and
(\) who did take an oath
(\) who did not take an oath.

My Commission Expires: MAR. 28, 1993

Notary Public, State of Florida

LEWIS D. MILLEDE, JR.

Notary Public Printed Signature
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Due Diligence – National Tropical Botanical Garden (NTBG) Real Property Gift

FIU has conducted the following due diligence in connection with the NTBG’s gift of the Hissar Plat Lots 1-3, which will be used for the construction and operation of the International Center for Tropical Botany (ICTB) facility:

➢ **Title and Lien Searches**
  - No existing mortgages, liens, judgments, open permits or code violations.
  - Title insurance policy obtained.

➢ **Existing Deed Restriction with respect to Lot 3**
  - Lot 3 contains a deed restriction requiring the parcel to be used for either residential purposes or botanical garden purposes provided such use is (1) “in conjunction with and similar to the operation of the [Kampong] and (2) “is operated and maintained as a garden for educational and scientific purposes only.”
  - The ICTB facility will be built in a manner that permits Lot 3 to be “operated and maintained as a garden for educational and scientific purposes” in accordance with the deed restriction.

➢ **Reverter Clause in Gift Agreement**
  - Under the Gift Agreement, FIU is entitled to reduce or discontinue programs at its discretion to respond to changing circumstances.
  - In the event that FIU determines that a permanent closure of the facility is necessary to respond to a force majeure event or budgetary constraints, or if FIU determines it could no longer use the property in support of the ICTB mission, then ownership of the property shall revert to NTBG.
  - The University recommends acceptance of the restriction under the circumstances, given the property’s location within the overall Kampong compound and the limited potential alternative uses for the property.
  - Advancement has obtained the Batchelor Foundation’s and Kenan Flagler Foundation’s consent to this restriction, as their funds will be used for construction of the Facility.
Survey

- An updated survey was completed and noted minor non-material existing fence encroachments with the Kampong property owned by the NTBG. If the fence is ever replaced, it will be done per correct boundaries.
- Survey noted a Water and Sewer Easement running through the middle of the parcels. Utility infrastructure and easement will be taken into account during construction of the ICTB facility.

Environmental Assessments

- Phase I and Phase II environmental site assessments completed; results did not reveal any impacts associated with the site.

Zoning

- Property is in the T3-R (Suburban) residential zoning district under City of Miami’s new “Miami 21” zoning code, which provides for a 3-story maximum height limitation for this district.
- In 2009, prior to adoption of “Miami 21” code, the NTBG included Lots 1-3 within the scope of its Class II permit/conditional use approval for the Kampong, which includes scientific uses.
- Once design documents are prepared, FIU and NTBG will seek to obtain appropriate governmental approvals for construction of the ICTB facility.

Taxes

- FIU’s use of the property will be exempt from ad valorem taxation.

Insurance

- The ICTB facility will be included within the University’s property insurance policy.
- FIU’s activities at the facility will be covered by the State of Florida’s Risk Management Trust Fund, as well as by the sovereign immunity protections afforded to FIU and its employees.
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BACKGROUND

1. Title of Proposed Unit: International Center for Tropical Botany

2. CIP Code(s): 26.0301

3. Proposed Date for Initiation of Unit: July 1st, 2014

4. Contact Person: Michael Heithaus PhD, Associate Dean, College of Arts and Sciences; Executive Director, School of Environment, Arts, and Society
   a. Telephone: 305-919-5234
   b. E-mail: heithaus@fiu.edu
   c. Fax: 305-919-4030

If this is a request for a center, please list the institutes, if any, that will be included under the center. It is proposed that the ICTB will house a number of specialist institutes. One initial proposed institute is the Redland Sustainability Institute. These will be determined by the incoming Director of the ICTB with the relevant FIU Deans and Provost.

PURPOSE: OBJECTIVES, MISSION, AND PRIORITIES

5. Unit Objectives and Contributions

   5.1. What is the discipline focus of the proposed unit?

The International Center for Tropical Botany mission: The International Center for Tropical Botany (ICTB), a collaboration between Florida International University and the National Tropical Botanic Garden (NTBG), is dedicated to the study of tropical plants and the resources they provide. The ICTB’s goal is to develop solutions that ensure the conservation and sustainable use of tropical plants in order to preserve tropical plant diversity for posterity. The ICTB will provide research-based knowledge and tools to preserve and sustainably use tropical plants and will foster programs to educate future generations of tropical plant biologists.

The main objectives of the proposed ICTB are to (1) to strengthen the quality and reputation of a premier team of FIU and NTBG researchers that work on collaborative projects in tropical botany, (2) to foster strong collaboration and external funding through our partnerships with botanical institutes in south Florida, nationally and globally, and (3) respond to the pressing need to provide evidence-based knowledge on the causes, mechanisms, outcomes and tools relating to the decline, conservation and sustainable use of tropical plant resources.
The ICTB is a multidisciplinary center focusing on collaborative research, teaching and professional training in tropical botany science topics that represent areas of strength for faculty members in the College of Arts & Sciences (CAS). Participating departments include Biology and Earth and Environment. Eight Core existing FIU faculty have indicated that the ICTB will be their primary research Center; in addition there will be the new ICTB Director and three (3) new Core faculty lines added in the future (for a total of 12) and eight (8) Affiliate FIU faculty. In addition there will be eight (8) researchers from NTBG that will be part of the ICTB.

The ICTB headquarters at The Kampong will be the hub for FIU’s tropical botany program and will serve the existing local, national and global collaborations. The proximity of a number of world-class botanical institutes (including but not limited to the Montgomery Botanical Center and Fairchild Tropical Botanic Garden) provides the ICTB with unmatched access to research partners and botanical resources. The ICTB will have access to the diverse collections, ecological reserves and resources held by the NTBG in Hawaii. NTBG manages the most comprehensive cultivated tropical plant collection in the US.

5.2. What are the goals, objectives, and the rationale for the proposed unit?

The International Center for Tropical Botany is a new center designed to promote the status and effectiveness of FIU’s leadership in tropical botany. The center is a collaboration between FIU and the National Tropical Botanical Garden (NTBG). The latter being a public nonprofit corporation created by act of the United States Congress and a charitable organization operating under section 501 (c) 3 of the Internal Revenue Code with a mission focused on tropical botany and conservation and operating a botanical garden known as The Kampong located at 4013 Douglas Road in Coconut Grove, Miami, Florida. The ICTB has been designed to deliver maximum benefit from the coordination of existing investments and resources from both institutions. Specifically it will bring together the activities of existing researchers, faculty and their institutional relationships to consolidate FIU and NTBG’s leadership in tropical botany.

NTBG desires to convey to FIU three lots located adjacent to The Kampong for the purpose of constructing the ICTB building consistent with the Joint Operating Agreement dated April 9, 2014. The land for construction has been donated by NTBG. This comprises three lots on the Hissar Property, owned by NTBG, that is adjacent to The Kampong in Coconut Grove, Miami. The Kampong was the home and garden of Dr. David Fairchild, world-renowned plant explorer and economic botanist. The proposed ICTB has received funding for the facility through a generous $5 million donation equally divided between and received from Batchelor Foundation, Inc. and the William R. Kenan, Jr. Charitable Trust for the specific purpose of construction.

Eight Core existing FIU faculty have indicated that the ICTB will be their primary research Center; in addition there will be the new ICTB Director and three (3) new Core faculty lines added in the future (for a total of 12) and eight (8) Affiliate FIU faculty. In addition there will be eight (8) researchers from NTBG that will be part of the ICTB. The faculty will continue with existing activities that will be delivered at MMC, BBC, and Fairchild Tropical Botanic Garden (FTBG) and at the new ICTB facility at The Kampong. This facility will house the ICTB Director, some faculty and their graduate students as well as facilities for visiting scientists. Other ICTB faculty will remain at MMC, BBC and FTBG. Through partnering with NTBG we expand the scope of FIU’s research capacity and
strengthen shared interests in key areas including ethnobotany, plant conservation, public and botanic garden studies and biogeography. (See Table 1)

Plants provide basic resources and services to all of society. Balancing the demands for plant resources from a human population that is rising to over 9 billion people by 2050 in the face of threats of climate change and continued habitat loss is a central challenge for this generation and a core mission responsibility for the ICTB. Plant resources, wild and cultivated, will be impacted by climate change. The habitats that provide wild resources and ecosystem services will be subject to ecological change. While the cropping systems that currently support agriculture will change as water and nutrient systems change so new cultivars better suited to the changed environment will be needed. The areas in the tropics currently producing bananas and coffee are unlikely to be producing those crops in the future as rainfall patterns and temperature change.

The extinction of plant diversity and loss of ecosystem services is recognized as a major limitation to sustainable development (Convention on Biological Diversity/Global Strategy for Plant Conservation). Plants provide food, fiber, fuel, shelter, and medicine for all individuals on the planet. Healthy ecosystems based on plant diversity provide the conditions and processes that sustain life and are essential to the well-being and livelihoods of all humankind. Plants also form the basis of the trophic pyramid in all terrestrial and most marine ecosystems on which we and all other animal species inevitably depend. In addition, plants provide a vast multitude of natural resources for humanity, especially in the developing world. They provide the basis for all of our food, most medicines and many other materials essential for our daily lives.

A recent study by Kramer et al., (Annals of the Missouri Botanical Garden, 99(2): 172-179, 2013) has identified the need for a greater investment in botany training in the US: “Despite the fundamental role plant science plays in addressing global environmental issues, a recent survey of nearly 1600 members of the botanical community in the United States revealed a severe shortage in the nation's botanical capacity or resource capabilities that support the advancement of plant science. The survey and a subsequent published report detailed shortages of botanists at government agencies, a wave of upcoming retirements, and an alarming decline in botanical degree programs and course offerings at the nation's colleges and universities” (from original study: http://www.bgci.org/files/UnitedStates/BCAP/bcap_report.pdf.)

Many universities are merging botany and zoology departments. In 1988, 72% of the nation’s top 50 most funded universities offered advanced degree programs in botany; by 2010 more than half of those universities had eliminated their botany programs. There has been a 50% decline in undergraduate botany degrees and a 40% decline in advanced botany degrees between 2000 and 2008. The American Public Garden Association (APGA) has recognized the urgent need for professional training in botanic and public garden administration.

The National Research Council (New Biology for 21st Century Challenges) emphasizes that approaches are necessary to address the current world challenges of sustaining food production, the natural environment, and energy systems. USDA and USAID research priorities continue to include food security and sustainability, climate change, bioenergy, food security, and food safety.
The research strengths of existing FIU faculty and NTBG staff to be associated with the ICTB include (Table 1):

**Table 1: ICTB Research Strengths**

<table>
<thead>
<tr>
<th>ICTB Research Area</th>
<th>FIU/NTBG Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tropical Organismal Botany</td>
<td>Richards, Bennett, Ortega/Lorence, Wood, Perlman, Flynn</td>
</tr>
<tr>
<td>Economic Botany</td>
<td>Bennett, Liu/ Ragone, Winter</td>
</tr>
<tr>
<td>Plant Systematics</td>
<td>Feeley, Bennett, Ortega/Lorence, Clark, Flynn</td>
</tr>
<tr>
<td>Plant Ecology</td>
<td>Richards, Koptur/Clark</td>
</tr>
<tr>
<td>Invasive Species</td>
<td>Richards, Koptur, Liu/Winter</td>
</tr>
<tr>
<td>Plant Conservation Biology</td>
<td>Liu, Feeley, Von Wettberg, Maunder/Winter, Clark, Wood, Perlman</td>
</tr>
<tr>
<td>Climate Change and Plant Diversity</td>
<td>Feeley, Von Wettberg, Richards</td>
</tr>
<tr>
<td>Botanic Garden Policy and Strategy</td>
<td>Maunder/Wichman</td>
</tr>
<tr>
<td>International Conservation Policy</td>
<td>Liu, Maunder/ Wichman, Clark</td>
</tr>
<tr>
<td>Plant Genetic Resources/Crop Wild Relatives</td>
<td>Von Wettberg/ Winter</td>
</tr>
<tr>
<td>Tropical Horticulture</td>
<td>Maunder/Ragone</td>
</tr>
<tr>
<td>Biodiversity and Biogeography</td>
<td>Ortega/Lorence, Clark</td>
</tr>
<tr>
<td>Plant-Animal Interactions</td>
<td>Liu, Koptur</td>
</tr>
</tbody>
</table>

The ICTB is a unique opportunity to bring together several traditionally isolated research and teaching areas—namely ethnobotany (including economic botany), tropical ecology, conservation biology and sustainable agriculture. The ICTB will be uniquely placed to produce innovative research that can guide and inform land use and resource management in the tropics.

**5.3. What is the relationship of the proposed unit to the University’s mission, priorities, and strategic themes?**

Florida International University (FIU), as one of the state’s largest public universities, has a mission to provide a Worlds Ahead education, research and outreach on urban, international and environmental issues. The FIU College of Arts and Sciences comprises a wide range of expertise in agriculture, botany and environmental sciences, chemistry, biology, economics and international trade, in order to address emerging agricultural issues and concerns. FIU has a strong tradition in tropical biology and specific expertise in tropical botany. There is a tradition of effective collaboration with Miami botanical institutions including the National Tropical Botanical Garden, Fairchild Tropical Botanic Garden and the Montgomery Botanical Center. FIU is building strong partnerships with national networks (e.g. APGA) and botanical centers in China, Latin America and Sub-Saharan Africa.

The ICTB will encompass activities across the many South Florida sites where FIU botanists are working. The Kampong, the ICTB headquarters, will serve a primary graduate and professional focus with resident faculty and their associated graduate students, while ICTB undergraduate activities will occur at Fairchild, a short drive from The Kampong, and at FIU’s MMC. The ICTB will host scientific and professional symposia, graduate seminars, professional courses, and public fee
generating educational events. We will explore the feasibility of offering a number of Professional Masters Degrees; the first is likely to be in Public Garden Management with a special focus on botanic gardens and plant collections. Discussions with American Public Garden Association (APGA) indicate a demand for this degree. This degree would be developed in conjunction with our local network of botanic gardens and our international partners. We anticipate that staff from those collaborating institutions will play an important teaching and mentoring role.

The ICTB will deliver the following strategic advantages to FIU (Worlds Ahead Strategic Plan/FIU goals):

- Educate students
- Support graduate students
- Offer opportunities for FIU students to apply knowledge to the real world
- Support faculty ambitions and research goals
- Increase faculty productivity
- Increase interdisciplinary interactions
- Engage with the local and global community
- Link to broader programs and consortia both locally and globally
- Translate research into usable products
- Impact the South Florida economy by creating jobs, establishing Miami as a hub for tropical botany and inducing students to relocate to South Florida to study, train and work at the ICTB
- Deliver a positive ROI
- Enhance FIU’s investment in the ICTB by securing significant and sustained external funding
- Develop a botany track at the undergraduate level
- Invest in a distinguished faculty, FIU has a world-class botany faculty and the ICTB will further grow that team through incremental hires.
- Demonstrate the utility of FIU to the South Florida community through research in ethnobotany, traditional plant use, sustainable agriculture and crop production and botanic garden management

The ICTB will explore collaborative research and teaching opportunities with the Chaplin School of Hospitality and Tourism Management with a focus on tropical food and culinary traditions

The ICTB will build on The Kampong’s history of working with local schools and community groups in Coconut Grove. For instance The Kampong currently works with the BarnYard, a program of Coconut Grove Cares, to provide after school education to children from the West Grove and has an education program with Carrolton School. The ICTB plans to work with local schools to promote STEM education through tropical botany with a special focus on working with schools serving poorly resourced communities. Through the ICTB’s linkage with Fairchild Tropical Botanic Garden faculty will continue to contribute to the Fairchild Challenge, an award winning schools science education program. The Fairchild Challenge works to encourage Miami school children to consider biology as a career and to create a pipeline whereby students can proceed to university to study biology and specifically botany.
The anticipated outcomes of the proposed ICTB are consistent with key elements of the FIU strategic plan (Table 2):

Table 2: ICTB Contribution to FIU World Ahead Strategy

<table>
<thead>
<tr>
<th>Worlds Ahead 2010-2015</th>
<th>ICTB Alignment with Worlds Ahead Strategic Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Revitalize and expand financial base</td>
<td>The ICTB will generate revenue from education and training programs, federal, industry, foundation and philanthropic funding, and engagement with a wide variety of professional stakeholders in the US and internationally.</td>
</tr>
<tr>
<td>(2) Achieve enhanced student learning and academic excellence</td>
<td>The ICTB will provide a unique portfolio of teaching and training opportunities for undergraduate, master and doctoral students. Access to the NTBG collections and resources in Hawaii provides a unique opportunity for FIU students.</td>
</tr>
<tr>
<td>(3) Enhance quality, quantity and impact of research and creative initiatives</td>
<td>The ICTB will provide an environment conducive to increasing scholarly productivity. Importantly the critical mass of ICTB faculty, including NTBG staff and collaborating institutions, will raise FIU’s status as a center for tropical botany. The ICTB will generate significant numbers of publications in top tier academic journals and will generate influential policy papers on key environmental matters.</td>
</tr>
<tr>
<td>(4) Engage community in collaborative problem solving</td>
<td>The ICTB by providing leadership in an area of science that is accessible to all sectors of society provides tremendous opportunities for university outreach. All sectors of society use and appreciate plants. The ICTB will build on existing community and school outreach programs initiated by The Kampong (NTBG) and other Miami partners.</td>
</tr>
<tr>
<td>(5) Globalization</td>
<td>The ICTB, by building an international network of collaborating researchers and institutions the ICTB can facilitate international learning, international collaborations and ensure that FIU plays a key part in advancing interdisciplinary research on global issues.</td>
</tr>
<tr>
<td>(6) Environment</td>
<td>The ICTB responds directly to the need to enforce FIU’s leadership in tropical ecological research and to develop new interdisciplinary graduate degrees in environmental science, policy and management.</td>
</tr>
</tbody>
</table>

5.4. For proposed research centers and institutes, explain how graduate and undergraduate education will be integrated with research.

The ICTB will be a research center that will provide mentoring to undergraduate, doctoral, post-doctoral and professional students through their integration with the research foci of the faculty affiliates. Detailed descriptions and syllabi of courses offered throughout the university that focus on content related to the mission of the center will be compiled.
5.5. What specific needs will the proposed unit meet and what measurable contributions will the proposed unit make to the University’s mission, priorities, and strategic themes, to the Board of Governors’ Strategic Plan, and to statewide priorities and needs?

The ICTB will advance the University’s mission by focusing on one of the major strategic themes, namely, the environment, and by facilitating state-of-the-art research and enhancing funding opportunities in this area. Tropical Biology was identified as a natural area for research and development at FIU in its Millennium Strategic Planning, and has continued to be highlighted in University planning. The FIU ICTB has unique features relative to centers and institutes at other state universities. The ICTB will bring together faculty from several FIU Departments and Colleges, namely the Chaplin College of Hospitality and Tourism Management, the College of Arts and Sciences and the College of Architecture + The Arts.

The proposed ICTB will directly serve the goals identified for the 2012-2025 State University System’s Board of Governors Strategic Plan (Table 3):

**Table 3: ICTB Contribution to SUS Strategic Plan**

<table>
<thead>
<tr>
<th>State University System of Florida Goal</th>
<th>ICTB response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strengthen quality and reputation of academic programs and universities</td>
<td>The ICTB will convene a strong group of researchers and through coordination and support enhance the quality and reputation of their work. A key part of the ICTB’s work will be building global partnerships for research and training.</td>
</tr>
<tr>
<td>Strengthen the quality and reputation of scholarship, research and innovation</td>
<td>The ICTB through working with collaborative partners strengthen the reputation of South Florida as a place to study tropical botany.</td>
</tr>
<tr>
<td>Increase degree productivity and program efficiency</td>
<td>The ICTB is committed to encouraging the study of botany and supporting the progress of our students.</td>
</tr>
<tr>
<td>Increase the number of degrees awarded in STEM and other areas of strategic emphasis</td>
<td>Tropical botany and its practical applications provide extraordinary opportunities for advancing the STEM agenda both within the university and with the ICTB’s partners.</td>
</tr>
<tr>
<td>Increase research and commercialization activity</td>
<td>ICTB will be working with industry partners and with communities using tropical plant resources so increasing the opportunities for translational research and the commercialization of research.</td>
</tr>
<tr>
<td>Increase collaboration and external support for research activity</td>
<td>The ICTB is built on a unique public university-not for profit partnership between FIU and NTBG, this is turn is supported by a large group of collaborating institutions and agencies.</td>
</tr>
</tbody>
</table>
Increase levels of community and business engagement

The work of the ICTB will be interpreted in many of our public garden partners (e.g. NTBG and Fairchild) so increasing our visibility in the community. Similarly we will work with business partners to increase student learning opportunities, applied research and financial support.

<table>
<thead>
<tr>
<th>THE ICTB will build a strong network of collaborating institutions and agencies. Existing (in bold) and potential collaborating institutes and centers in Florida include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• <strong>Fairchild Tropical Botanic Garden</strong></td>
</tr>
<tr>
<td>• <strong>Montgomery Botanical Center</strong></td>
</tr>
<tr>
<td>• Naples Botanic Garden</td>
</tr>
<tr>
<td>• <strong>USDA Chapman Field</strong></td>
</tr>
<tr>
<td>• Fruit and Spice Park</td>
</tr>
<tr>
<td>• <strong>Patricia and Phillip Frost Museum of Science</strong></td>
</tr>
</tbody>
</table>

Potential national and global partners include:

- **World Conservation Union/IUCN**
- **Smithsonian Institution**
- **American Public Gardens Association**
- Botanic Gardens Conservation International
- **Conservation International**
- Center for Plant Conservation
- **Chinese Academy of Sciences**
- Consultative Group on International Agriculture Research
- **Organization for Tropical Studies**
- **Table 4.** Number of undergraduate and graduate courses listed in Florida SUS catalogues from 2009/10 to 2012/13; Florida Polytechnic University and New College of Florida not included. Data from Transfer Evaluation System (TES® 3.0, accessed Feb. 27-28, 2014) and queried for BOT (Botany) courses.

<table>
<thead>
<tr>
<th>University</th>
<th>Undergraduate Lecture</th>
<th>Undergraduate Lab</th>
<th>Graduate Lecture</th>
<th>Graduate Lab</th>
<th>Undergraduate Ethnobotanical courses&lt;sup&gt;1&lt;/sup&gt;</th>
<th>Graduate Ethnobotanical courses&lt;sup&gt;1&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida Agricultural and Mechanical University</td>
<td>0&lt;sup&gt;2&lt;/sup&gt;</td>
<td>0&lt;sup&gt;2&lt;/sup&gt;</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Florida Atlantic University</td>
<td>6</td>
<td>6</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Florida Gulf Coast University</td>
<td>6</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Florida International University</td>
<td><strong>13</strong></td>
<td><strong>12</strong></td>
<td><strong>22</strong></td>
<td><strong>18</strong></td>
<td>1</td>
<td><strong>2</strong></td>
</tr>
<tr>
<td>Florida State University</td>
<td>7</td>
<td>4</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>University of Central Florida</td>
<td>11</td>
<td>8</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>University of Florida</td>
<td>10</td>
<td>4</td>
<td>11&lt;sup&gt;3&lt;/sup&gt;</td>
<td>3&lt;sup&gt;3&lt;/sup&gt;</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>University of North Florida</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>University of South Florida</td>
<td>9</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>University of West Florida</td>
<td>10</td>
<td>7</td>
<td>5</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

<sup>1</sup> Includes Economic Botany, Ethnobotany, Plants in Human Affairs, Medical Botany, Medicinal Botany, Plants and Man, Plants and Society, Culinary Botany Across the Cultures

<sup>2</sup> No BOT courses but has an active horticulture program

<sup>3</sup> These courses last listed in 09/10
The SUS has a number of centers for environmental issues and sustainability, and several centers that have tropical foci or tropical associations, however, there is not a center that emphasizes tropical botany or ethnobotany. The UF has a Center for Tropical Agriculture that is part of IFAS and is located in Homestead, FL; FIU faculty collaborate with researchers at this Center. UF also had a Center for Subtropical Agroforestry, but it was terminated in 2013.

The FIU ICTB is well positioned to lead the state in undergraduate and graduate botanical education, especially tropical botany and ethnobotanical subjects (Table 4). The ICTB program covers all tropical botanical activities by FIU faculty. Undergraduate programs will continue to be delivered at MMC and FTBG. FIU has the greatest number and most diverse undergraduate and graduate botany offerings in the SUS, including a variety of ethnobotanical courses offered at both the undergraduate and graduate level (Table 4). FIU is the only SUS University to offer a course in tropical botany at the undergraduate level. In 2014 FIU will begin to offer a tropical systematics course at the graduate level through the Kampong; this course was previously taught through the UF but was last listed in their catalogue in 2009/10 (BOT 5685C). This is currently the only graduate offering in tropical botany in the SUS.

Research, teaching and program development will be supported from a variety of research funding sources that range from local through national and international sources, and from public to private. The proposed ICTB faculty recent and current funding includes:

- National Science Foundation
- National Institute of Health
- Department of Interior (through Everglades National Park)
- USAID
- USAID HED
- USAID Feed the Future Program
- South Florida Water Management District
- US Fish and Wildlife Service
- Florida Wildflower Council
- Florida Native Plant Society
- Garden Club of America
- Fulbright Hayes
- USDA HIS
- USDA NRCS
- NIFA Florida-Caribbean Consortium for Agriculture Education and Hispanic Workforce Development
- Howard Hughes Medical Initiative
- Mohamed bin Zayed Species Conservation Fund
- National Geographic Society
- NASA
- Fairchild Tropical Botanic Garden
- Amazon Conservation Association
5.6. What is the demand for the proposed unit’s services? What clientele will the proposed unit serve?

Kramer et al. (2013) assessed the state of botany training in the US. This study identified a need to train a new generation of botanists with practical skills in conservation and resource management, in particular the need for new botanists in the federal government, where around 50% of botanists will retire before 2020. The study recommended that universities ensure that plant science (botany) is “appropriately incorporated into annual course offerings for undergraduate and graduate students to ensure they are employable both within and outside the academic sector”. In addition the recommendation is made that “Academic, government and private sectors should work collaboratively to strategically strengthen botanical education and training”.

ICTB, as a research and training oriented center, will have a diverse range of external clientele.

- Researchers at collaborating universities and institutions
- Protected area managers in Florida, the USA and globally
- Rural communities in the tropics
- National biodiversity units and government agencies
- Botanical and biodiversity professionals in the US and globally
- Pharmaceutical companies and medical researchers
- Botanic garden professionals and organizations

5.7. How many graduate and/or undergraduate students will be engaged in the proposed unit’s activities? How many postdoctoral fellows?

FIU’s ICTB faculty are expected to initially train 20 graduate students per year (an average of 1-2 per lab), this is expected to increase to at least 30 by Year 5 with the addition of new faculty and early-career faculty. Graduate students will be supported by a combination of grants, teaching assistantships, and competitive external fellowships. By Year 5 we project there will 8 postdoctoral fellows, supported by grants and philanthropic gifts, associated with ICTB. Undergraduate teaching will be delivered through standard departmental assignments at current teaching locations (e.g. FIU campus locations and FTBG). Yearly, dozens of undergraduate students will be engaged in internships and research projects, and hundreds will be enrolled in classes taught by ICTB faculty through their standard departmental assignments.

Current graduate students in ICTB faculty laboratories

Currently, there are 18 graduate students supported on grants:

<table>
<thead>
<tr>
<th>Student Name</th>
<th>Degree</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eric Bishop von Wettberg PhD</td>
<td></td>
<td>Core</td>
</tr>
<tr>
<td>Javier Francisco Ortega PhD</td>
<td></td>
<td>Core</td>
</tr>
<tr>
<td>Hong Liu PhD</td>
<td></td>
<td>Core</td>
</tr>
<tr>
<td>Jennifer Richards PhD</td>
<td></td>
<td>Core</td>
</tr>
<tr>
<td>Mahadev Bhat PhD</td>
<td></td>
<td>Affiliate</td>
</tr>
<tr>
<td>Jim Fourqurean PhD</td>
<td></td>
<td>Affiliate</td>
</tr>
<tr>
<td>Mike Ross PhD</td>
<td></td>
<td>Affiliate</td>
</tr>
<tr>
<td>Len Scinto PhD</td>
<td></td>
<td>Affiliate</td>
</tr>
<tr>
<td>Krish Jayachandran PhD</td>
<td></td>
<td>Affiliate</td>
</tr>
</tbody>
</table>

11
5.8. How many research or clinical professors will be supported in the unit?

No purely soft money researchers or clinical professors are envisaged at this initial stage of development.

5.9. For proposed research centers and institutes, explain how the unit’s goals and objectives follow the pathways of funding for research.

The ICTB will be able to exploit a wide variety of potential funding sources. We anticipate utilizing the following areas:

- Development linked funds from government agencies
- Sponsored research from commercial partners
- Philanthropic support from private citizens and foundations
- Conservation focused foundations
- Direct government funding from overseas partners
- Traditional federal (e.g. NSF) grant sources

5.10. What percentage of the proposed unit’s efforts will be devoted to instruction, research and development, public service/outreach, technology transfer, other?

Overall, the ICTB’s efforts will be devoted to basic and applied research including standard graduate training (80%) with the remainder split between mentoring postdoctoral associates and junior faculty, service, and outreach (20%). We expect that professional instruction will become part of the core efforts of ICTB and, therefore, the ratio of activities will evolve (e.g. 70% research, 20% professional instruction, 10% outreach, service, and mentoring.)

6. Organization

6.1. Describe the proposed unit’s organizational structure.

The ICTB will be administratively housed in the School of Environment Arts and Society (SEAS) within the College of Arts & Sciences.

The Director of the ICTB will be responsible for the day-to-day operations of the ICTB (reporting to Director of the School of Arts and Society (SEAS). The Director will be expected to contribute to the outreach and development activities of the ICTB, specifically developing a close working relationship with The Kampong board and fellows.

FIU and NTBG have established a Management Committee of six (6) members with three (3) members appointed by FIU and three (3) appointed by NTBG. The Management Committee will be advisory and will provide input to FIU’s operation of the ICTB and ensure full coordination with the operations of the Kampong. The managers of the ICTB and The Kampong will maintain a regular calendar of meetings to ensure full coordination and complementarity. This system will be subject to modification if FIU takes on the management of The Kampong and ICTB as an integrated facility (#8 of the Points of Understanding, 9th April, 2013).

An academic advisory committee has been established by FIU to guide on the strategic development of
the ICTB research activities. NTBG will be represented on this committee through the appointment by NTBG of at least forty percent (40%) of the members of the academic advisory committee (#10 of the Points of Understanding, 9th April, 2013).

FIU, with input from the Management Committee, will appoint a Director of the ICTB, who will be based at the ICTB and will be responsible for the delivery of world-class research (#12 of the Points of Understanding, 9th April, 2013). Recruitment is underway (May, 2014).

Categories of ICTB membership shall be comprised of the following:

**Core Member**
Open to FIU faculty who use the ICTB as the primary home of their research efforts.

**FIU Core Faculty**
- Director of ICTB, to be appointed
- Brad Bennett PhD, Professor, Department of Biological Sciences
- Eric Bishop von Wettberg PhD, Assistant Professor, Department of Biological Sciences
- Ken Feeley PhD, Assistant Professor, Department of Biological Sciences
- Javier Francisco Ortega PhD, Professor, Department of Biological Sciences
- Suzanne Koptur PhD, Professor, Department of Biological Sciences
- Hong Liu PhD, Assistant Professor, Department of Biological Sciences
- Jennifer Richards PhD, Professor, Department of Biological Sciences
- Mike Maunder PhD, Associate Dean and Associate Professor, Department of Biological Sciences

**Affiliate Faculty**
- Mahadev Bhat PhD, Professor, Department of Earth and Environment
- Jim Fourquerean PhD*, Professor, Department of Biological Sciences
- Krish Jayachandran PhD, Professor, Department of Earth and Environment
- Mike Ross PhD*, Associate Professor, Department of Earth and Environment
- Len Scinto PhD*, Professor, Director of SERC, Department of Earth and Environment
- Tim Collins PhD, Head of Biology, Department of Biological Sciences
- Manuel Barbieri PhD, Associate Professor, Department of Biological Sciences
- Steve Oberbauer PhD, Professor, Department of Biological Sciences

* Faculty with membership of the South Eastern Environmental Research Center. It is proposed that their ecosystem related research will be retained by SERC and that specific botanical research will be aligned with ICTB.

**NTBG Members**
Open to NTBG researchers who use the ICTB as the primary affiliation for their research efforts (with proposed allocation of time dedicated to ICTB activities)
- David Lorence PhD, Co-Director of Conservation and Research (15%)
- John R. Clark PhD, Co-Director of Conservation and Research (15%)
- Diane Ragone PhD, Director of the Bread Fruit Institute (15%)
- Kawika Winter PhD, Director of the Limahuli Garden (10%)
● Ken Wood, Field Botanist (15%)
● Steve Perlman, Field Botanist (15%)
● Chipper Wichman, CEO (5%)
● Tim Flynn, Curator of Herbarium (15%)

Collaborator Affiliate
Open to any researcher at any university or research facility working in areas covered by the ICTB mission statement. They may participate on an ad hoc basis in small group dialogue, seminars, conferences, colloquia with Center members and are able to draw upon the resources of the Center to further their own work.

Community Affiliate
Open to external members including those working in the plant conservation and botanic garden professions who wish to exchange knowledge and ideas with researchers in their field of endeavor as covered by the Mission Statement of the ICTB.

Trainee
Open to pre- and post-doctoral students in a mentoring relationship with Center research faculty who may or may not be their dissertation advisor.

6.2. Explain how the proposed unit is organized to meet its objectives.

The ICTB is organized to welcome open, democratic suggestions from the faculty members for meeting its objective. The Academic Advisory Committee and Management Committee will ensure that the Center is responsive to the needs and mission of the university as well as the national priorities of major funding agencies and professional groups. The inclusion of collaborator affiliates from other academic institutions, related industries and international entities will promote strong collaborations with these entities.

6.3. Outline the composition of the internal or external advisory boards.

The Academic Advisory Board will be comprised of both internal and external members, including FIU deans (or their representatives), as well as external individuals with expertise in scientific areas relevant to the ICTB mission, and experience in interdisciplinary research centers. This Academic Advisory Board will meet with the ICTB Director annually. The following persons have been invited to serve:

● Chair Professor Jennifer Richards PhD (FIU)
● Warren Wagner PhD (Smithsonian Institution and NTBG Board Member)
● Professor Sir Iain Prance PhD (Eden Project and NTBG Board Member)
● John Clark PhD (NTBG)
● John Rashford PhD (Charleston College and NTBG Board Member)
● Brad Bennett PhD (FIU)
● Eric Bishop von Wettburg PhD (FIU)
● Michael Heithaus PhD (FIU)
● Mike Maunder PhD (FIU, representing the Management Committee)
● Director of ICTB (FIU, to be appointed)
7. Outcomes

Define the suite of outcomes by which the success of the unit will be gauged. Each outcome must have a corresponding measurable indicator to assess the proposed unit’s success compared to department levels without the center or institute. Specific measurable outcomes might include Table 5:

Table 5: ICTB Measurable Outcomes

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Performance/Measurement Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Student Education and Training</strong></td>
<td>• Number (FTE) of undergraduate and graduate students participating in training</td>
</tr>
<tr>
<td></td>
<td>• Number of externally warded grant funded stipends per annum</td>
</tr>
<tr>
<td></td>
<td>• Number of dissertations generated by ICTB participation, collaboration and activity</td>
</tr>
<tr>
<td></td>
<td>• Number of masters theses and undergraduate honors theses generated by ICTB participation, collaboration, and activity</td>
</tr>
<tr>
<td></td>
<td>• Number of research assistantships funded for graduate students.</td>
</tr>
<tr>
<td></td>
<td>• Number of funded post-doctoral fellowships</td>
</tr>
<tr>
<td></td>
<td>• Organization and implementation of an undergraduate track in Tropical Botany within the Biological Sciences major</td>
</tr>
<tr>
<td></td>
<td>• Number of students enrolled in the Tropical Botany track</td>
</tr>
<tr>
<td><strong>Faculty integration/collaboration/support</strong></td>
<td>• Number and nature of interdisciplinary activities e.g. grants</td>
</tr>
<tr>
<td></td>
<td>• Number of research speakers hosted</td>
</tr>
<tr>
<td></td>
<td>• Number of guest scholars hosted</td>
</tr>
<tr>
<td></td>
<td>• Number of collaborative grants obtained</td>
</tr>
<tr>
<td></td>
<td>• Number of within center, multi authored, published papers</td>
</tr>
<tr>
<td></td>
<td>• Organization and allocation of a co-located office space at FIU for ICTB Core faculty, post-docs and graduate students.</td>
</tr>
<tr>
<td><strong>Increased Federally financed academic R &amp; D and faculty productivity</strong></td>
<td>• Number of grants submitted and awarded to faculty and doctoral students affiliated with the ICTB: Average per capita contract and grant activity and returned</td>
</tr>
<tr>
<td></td>
<td>• Number of peer reviewed publications: Average per capita faculty publication rate will exceed rate for a comparison group</td>
</tr>
<tr>
<td></td>
<td>• Number of faculty research presentations at national and international conferences</td>
</tr>
<tr>
<td>Outcome</td>
<td>Performance/Measurement Indicator</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------</td>
</tr>
</tbody>
</table>
| Network/Community Engagement | • Number of workshops and training provided to local agencies, schools and groups  
• Number of workshops and training provided to national and international local agencies, schools and groups  
• Number of individuals served in these trainings/presentations  
• Provision of consultancy services to national and international clients  
• Income generated per year from above activities  
• Number of hits on ICTB web site  
• Number of government agencies and international networks receiving technical services from ICTB  
• Congruence of ICTB activities with Global Strategy for Plant Conservation  
• Number of partnerships with translational research organizations or industry.  
• Development of professional masters courses  
• Number of visiting professors and sabbatical visitors |
| Increased University and National Public Service/Impact | • Number of international, national, state, and local, committees/boards/societies chaired or served on by ICTB faculty  
• Number of usable products or tools derived from ICTB research and adopted for use in academia and/or public domains |
| Increased Public Recognition | • Number of awards or honors received by ICTB faculty from international, national, state, and local, committees/boards/societies  
• Number of local and national media publications/appearances |
| Resource Utilization | • Number of and dollar amount of external grants  
• Number of and amount of philanthropic gifts  
• Positive ROI |
| Quality Assurance | • Annual ICTB report submitted to President, Provost and VP for Research  
• Annual presentation to ICTB Academic Advisory Board  
• Annual presentation to ICTB Management Committee  
• Regular measures of quality assurance for professional and educational services |
8. Resources

8.1. Describe the total resource requirements

Table 9 reflects all sources of funds, including state, non-state, and reallocations. Table 10 and 11 shows the relative contributions of the ICTB faculty as measured in FTE’s and C&G’s funding.

ICTB will develop a core of senior researchers at the ICTB HQ at The Kampong and existing locations. Eight Core existing FIU faculty have indicated that the ICTB will be their primary research Center; in addition there will be the new ICTB Director and three (3) new Core faculty lines added in the future (for a total of 12) and eight (8) Affiliate FIU faculty. In addition there will be eight (8) researchers from NTBG that will be part of the ICTB.

The five-year implementation plan for establishing the ICTB consists of (Table 8):

- Phase I (Table 8) is the construction and fitting of the ICTB headquarters at The Kampong, a tropical botanical garden in Coconut Grove, owned by the National Tropical Botanical Garden. The ICTB will be the hub for FIU’s tropical botany program and will serve the existing local, national and global collaborations. FIU has received the capital funds ($5 million) needed to construct the ICTB from the William R. Kenan, Jr. Charitable Trust and the Batchelor Foundation.

- Phase II (Yrs. 1, 2, 3 on Table 8). The ICTB is based in large part on the reallocation of existing faculty and their expertise, established and long running collaboration with NTBG and the support of strong and influential donors. Recruitment for the Director position has started May 2014. In Year 1, senior researchers from participating departments including Biology and Earth and Environment have agreed that the ICTB is where they will conduct research. The ICTB will build on FIU’s established leadership in tropical botany. All FIU faculty members will retain their current research and teaching assignments. In Yr. 1, Executive Staff and Program Manager positions will start and will be in charge of routine daily operational and coordination of educational activities of the ICTB. A part-time Receptionist will be hired in YR3. We will explore synergies and efficiencies with the existing Kampong staff that share the location.

- Phase III (Yrs. 4, 5 and subsequent years)
  The ICTB and the strong collaboration with NTBG and other partners will bring a return on investment that demonstrates FIU’s national and international leadership in tropical botany, increased academic productivity, increased FIU brand strength and a diversified funding base for tropical botany. ICTB will be operated to ensure it runs as a breakeven facility and indeed it is planned that after an initial period of operation they will generate a surplus for CAS starting in Yr1 (Table 8).

Traditionally a strong botany program uses a wide variety of collection-based resources. The ICTB through a collaborative approach will not have to build some of these expensive resources. FIU faculty will continue to use the facilities at FTBG including the herbarium, library and laboratories. The primary partner, NTBG, holds a rich botanical library, Loy McCandless Marks Botanical Library, and extensive herbarium of in the Botanical Research Center on Kauai. Similarly ICTB faculty has access to the library and herbarium of Fairchild Tropical Botanic Garden in Miami. The ICTB has unparalleled access to some of the richest plant collections in the world, most notably those of NTBG plus local collaborators at Montgomery Botanical Center and Fairchild Tropical Botanical Garden. Globally we
have collaborations with important tropical botany institutions, a prime example being Xishuangbanna Tropical Botanical Garden, Chinese Academy of Sciences, China (MOU established 2013).

8.2 Equipment.

Precise requirements for facilities and equipment will be determined during the design phase June - August 2014.

8.3 Operating Expenses.

Please refer to attached budget sheets for breakdown of expenses and income (Table 8). We request a return indirect rate of 15%.

- Salaries and Benefits: Covers the Director of ICTB, Strategic Advisor to the ICTB, Program Manager, Receptionist and Faculty
- Donor Events: A nominal amount to support development activities
- Insurance: Wind, fire, flood, liability and dwelling insurance coverage
- Sponsored Research Operating Costs: The remaining direct cost of research on existing awards less any salaries paid to ICTB faculty
- Instructional Costs – Workshops: Includes Facilitator cost, Workshop materials, Shared Services Fees 7%, University College Fee 1%, Bad Debt 0.06% and CAS/SEAS Dept. 6%
- Office Supplies: Basic supplies for running a center
- Utilities: Electricity, water and sewer, and garbage collection
- Property Operation & Maintenance: Yr1 and Yr2 estimate of costs associated with occupying the Kampong or other facilities as a pro rata share of utility expenses
- Telecom/Wireless expenses: communication and internet services
- Security: 24-hour security service if needed
- Shared Services Fee: 7% of operating expenses (excludes OCO) and covers the center’s estimated share of the cost of HR, General Counsel, Controller, Financial Planning, and Facilities etc.

8.4 Speakers’ Series and Annual Symposium

The ICTB will bring in 4 - 6 guest speakers per year. An annual symposium will be held in conjunction with the annual visit by the external members of the Academic Advisory Board.

8.5 Core Facilities

FIU: The Department of Biological Sciences has modern biology research and teaching facilities. In addition to individual researcher’s laboratories, these include common-use areas for electron microscopy (SEM/TEM), tissue and cell culture, protein/DNA sequencing/synthesis, image analysis, animal care and aquaria facilities, radioisotope facilities, and darkrooms. Research instrumentation and equipment includes ultracentrifuges, scintillation counters, beta scanners, HPLC/GC, spectrophotometers (UV/vis, fluorescence). Computer access is available in laboratories, as well as wireless access on campus. Field vehicles of various types are available for terrestrial, freshwater and marine research off-campus. The Department also runs the Wertheim Plant Conservatory for teaching and public display, as well as two
contiguous research greenhouses with a growth chamber facility and head house (3080 sq. ft.), adjacent
Teaching garden (1190 sq. ft.), and aquatic plant research mesocosm area (1900 sq. ft.). Additional
facilities available in or to faculty and student in the Department of Biological Sciences can be seen at
http://biology.fiu.edu/facilities/. The botanical faculty on the FIU MMC campus have planted a number
of palm and tree species of interest (http://biology.fiu.edu/links/campus_palm_guide.pdf,
http://biology.fiu.edu/links/campus_tree_guide.pdf), and there is a Nature Preserve on campus
(http://gogreen.fiu.edu/topics/the-nature-preserve/index.html).

The Kampong: The Kampong currently has a small teaching laboratory, two conference rooms, a large
winter only seminar and hospitality facility, and a dormitory for students and visitor
apartments/cottages. NTBG is planning a renovation of the main house at The Kampong, this to include
fitting out rooms for conferences and seminars. A preliminary estimate of construction costs for the
ICTB HQ at The Kampong is outlined in Table 6.

<table>
<thead>
<tr>
<th>Description</th>
<th>Estimate</th>
<th>Year 1</th>
<th>Year 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1</td>
<td>$ 3,152,500</td>
<td>$ 1,576,250</td>
<td>$ 1,576,250</td>
</tr>
<tr>
<td>FF&amp;E</td>
<td>$ 267,728</td>
<td>$ -</td>
<td>$ 267,728</td>
</tr>
<tr>
<td>Site Parking + Perimeter Areas</td>
<td>$ 500,000</td>
<td>$ 300,000</td>
<td>$ 200,000</td>
</tr>
<tr>
<td>Subtotal Buildout &amp; Improvements</td>
<td>$ 3,920,228</td>
<td>$ 1,876,250</td>
<td>$ 2,043,978</td>
</tr>
<tr>
<td>Hard Cost Contingency (5%)</td>
<td>$ 196,011</td>
<td>$ 93,813</td>
<td>$ 102,199</td>
</tr>
<tr>
<td>Subtotal Hard Costs</td>
<td>$ 4,116,239</td>
<td>$ 1,970,063</td>
<td>$ 2,146,177</td>
</tr>
<tr>
<td>Architecture &amp; Engineering</td>
<td>$ 123,487</td>
<td>$ 59,102</td>
<td>$ 64,385</td>
</tr>
<tr>
<td>Legal &amp; Professional</td>
<td>$ 41,162</td>
<td>$ 19,701</td>
<td>$ 21,462</td>
</tr>
<tr>
<td>General &amp; Administrative</td>
<td>$ 41,162</td>
<td>$ 19,701</td>
<td>$ 21,462</td>
</tr>
<tr>
<td>Media Equipment</td>
<td>$ 87,000</td>
<td>$ 87,000</td>
<td>$ 87,000</td>
</tr>
<tr>
<td>Telecom/Wireless/Security Hardware</td>
<td>$ 97,000</td>
<td>$ 97,000</td>
<td>$ 97,000</td>
</tr>
<tr>
<td>Soft Cost Contingency (12%)</td>
<td>$ 493,949</td>
<td>$ 236,407.5</td>
<td>$ 257,541</td>
</tr>
<tr>
<td>Subtotal Soft Costs</td>
<td>$ 883,761</td>
<td>$ 518,911</td>
<td>$ 364,850</td>
</tr>
<tr>
<td>Total Build Out</td>
<td>$ 5,000,000</td>
<td>$ 2,488,973</td>
<td>$ 2,511,027</td>
</tr>
</tbody>
</table>

The ICTB will house lecture and seminar facilities, 3 dedicated laboratories and faculty offices, not
exceeding 6-7000 sq. feet. Precise program to be developed by architects after transfer of the allocated
Hissar plots from NTBG to FIU by end of June 2014. A total of $5 million has been generated from two
philanthropic gifts, an initial challenge grant from the William R. Kenan, Jr. Charitable Trust
Foundation and a matching gift from the Batchelor Foundation. The gifts are to fund the design,
construction and fitting of the ICTB.

8.6. List all personnel, titles, time and effort to be committed to the proposed unit and the
salary source for the time.

All faculty listed below have indicated an interest in being part of the ICTB. (Table 7).
Table 7: Core Faculty / Year 4 - 100% Staffing Levels

<table>
<thead>
<tr>
<th>FIU Core Faculty</th>
<th>Titles</th>
<th>Salary Source</th>
<th>% of Effort</th>
</tr>
</thead>
<tbody>
<tr>
<td>TBD</td>
<td>Director of ICTB</td>
<td>E&amp;G/C&amp;G/Aux</td>
<td>65%/10%/25%</td>
</tr>
<tr>
<td>Brad Bennett PhD</td>
<td>Professor, TBD</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Eric Bishop von Wettberg PhD</td>
<td>Assoc. Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Ken Feeley PhD</td>
<td>Assoc. Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Javier Francisco Ortega PhD</td>
<td>Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Suzanne Koptur PhD</td>
<td>Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Hong Liu PhD</td>
<td>Assoc. Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Jennifer Richards PhD</td>
<td>Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Mike Maunder PhD (12 month contract)</td>
<td>Assoc. Dean</td>
<td>E&amp;G</td>
<td>0.10%</td>
</tr>
<tr>
<td>Faculty 1</td>
<td>Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Faculty 2</td>
<td>Assoc. Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
<tr>
<td>Faculty 3</td>
<td>Assoc. Professor</td>
<td>E&amp;G/C&amp;G</td>
<td>42%/8%</td>
</tr>
</tbody>
</table>

The ICTB faculty will offer workshops created and delivered by Core and Affiliate faculty.

8.7. **Describe faculty relationships, released time agreements, and overhead recovery (F&A) sharing.**

Faculty subject to differential assignments as determined by CAS and home departments. ICTB will be operated to ensure it runs as a breakeven facility and indeed it is planned that after an initial period of operation they will generate a surplus for CAS starting in Yr1 (Table 8). It is proposed that the ICTB be guaranteed from CAS and the Division of Research funds equivalent to (a) 10% of the faculty salary savings, and (b) 15% of the F&A costs of grants generated by ICTB members.

8.8. **Designation of institutional stewardship: if the director leaves, will a new director be brought in?**

Subject to the approval of the Provost, if ICTB Director leaves FIU the position will be refilled.

9. **Quality Assurance Processes**

9.1 **Describe the processes that will produce evidence to demonstrate the quality of the unit, for example**

The Director will file an annual report to be submitted to members of the Management Committee and the Academic Advisory Committee detailing the accomplishments of the Center relative to the mission and goals of the Center, CAS and FIU. The Academic Advisory Committee provides a unique opportunity for the ICTB to work with national and international leaders in tropical botany. As a BOG recognized center, the ICTB will provide regular performance based reporting to the BOG.
### Table 8: ICTB P&L PROJECTIONS

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>E&amp;G Salary Support</td>
<td>$530,106</td>
<td>$584,920</td>
<td>$629,577</td>
<td>$661,043</td>
<td>$645,167</td>
</tr>
<tr>
<td>Sponsored Research</td>
<td>$312,413</td>
<td>$1,228,091</td>
<td>$1,289,496</td>
<td>$1,353,970</td>
<td>$1,421,669</td>
</tr>
<tr>
<td>Foundation Grants</td>
<td>$0</td>
<td>$150,000</td>
<td>$200,000</td>
<td>$250,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Contributions (Cash)</td>
<td>$0</td>
<td>$105,000</td>
<td>$140,000</td>
<td>$175,000</td>
<td>$210,000</td>
</tr>
<tr>
<td>Instructional - Workshops</td>
<td>$384,500</td>
<td>$442,000</td>
<td>$449,500</td>
<td>$464,500</td>
<td>$479,500</td>
</tr>
<tr>
<td>PO&amp;M</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td><strong>$1,227,019</strong></td>
<td><strong>$2,510,011</strong></td>
<td><strong>$2,708,573</strong></td>
<td><strong>$2,904,513</strong></td>
<td><strong>$3,056,336</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Operating Expenses</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>FTE's</td>
<td>5.60</td>
<td>6.10</td>
<td>7.10</td>
<td>7.60</td>
<td>7.60</td>
</tr>
<tr>
<td>Salaries and Benefits</td>
<td>$630,058</td>
<td>$762,106</td>
<td>$860,463</td>
<td>$929,836</td>
<td>$943,784</td>
</tr>
<tr>
<td>E&amp;G Salaries</td>
<td>$530,106</td>
<td>$584,920</td>
<td>$629,577</td>
<td>$661,043</td>
<td>$645,167</td>
</tr>
<tr>
<td>Sponsored Research Salaries</td>
<td>$18,952</td>
<td>$94,970</td>
<td>$106,409</td>
<td>$117,040</td>
<td>$118,795</td>
</tr>
<tr>
<td>Auxiliary / Gift Funded</td>
<td>$81,000</td>
<td>$82,215</td>
<td>$124,477</td>
<td>$151,754</td>
<td>$179,822</td>
</tr>
<tr>
<td>Donor Events</td>
<td>$15,000</td>
<td>$15,000</td>
<td>$15,000</td>
<td>$15,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>Insurance</td>
<td>$16,000</td>
<td>$16,000</td>
<td>$16,000</td>
<td>$16,000</td>
<td>$16,000</td>
</tr>
<tr>
<td>Sponsored Research Direct Costs</td>
<td>$262,633</td>
<td>$1,071,637</td>
<td>$1,118,529</td>
<td>$1,169,145</td>
<td>$1,231,699</td>
</tr>
<tr>
<td>Foundation Grant Field Expenses</td>
<td>$0</td>
<td>$112,500</td>
<td>$150,000</td>
<td>$187,500</td>
<td>$225,000</td>
</tr>
<tr>
<td>Instructional Costs - Workshops</td>
<td>$169,390</td>
<td>$179,228</td>
<td>$180,512</td>
<td>$183,078</td>
<td>$185,645</td>
</tr>
<tr>
<td>Office Supplies</td>
<td>$1,500</td>
<td>$1,500</td>
<td>$1,500</td>
<td>$2,000</td>
<td>$2,500</td>
</tr>
<tr>
<td>Utilities</td>
<td>$38,090</td>
<td>$38,090</td>
<td>$38,090</td>
<td>$38,090</td>
<td>$38,090</td>
</tr>
<tr>
<td>Property Operation &amp; Maintenance</td>
<td>$7,500</td>
<td>$7,500</td>
<td>$49,689</td>
<td>$49,689</td>
<td>$49,689</td>
</tr>
<tr>
<td>Telecom/Wireless expenses</td>
<td>$12,600</td>
<td>$12,600</td>
<td>$25,200</td>
<td>$25,200</td>
<td>$25,200</td>
</tr>
<tr>
<td>Security</td>
<td>$12,000</td>
<td>$12,000</td>
<td>$12,000</td>
<td>$12,000</td>
<td>$12,000</td>
</tr>
<tr>
<td>College Overhead Fee</td>
<td>$23,070</td>
<td>$26,520</td>
<td>$26,970</td>
<td>$27,870</td>
<td>$28,770</td>
</tr>
<tr>
<td>Shared Services Fee</td>
<td>$50,764</td>
<td>$56,749</td>
<td>$71,256</td>
<td>$76,147</td>
<td>$77,158</td>
</tr>
<tr>
<td><strong>Total Operating Expenses</strong></td>
<td><strong>$1,184,515</strong></td>
<td><strong>$2,257,341</strong></td>
<td><strong>$2,565,208</strong></td>
<td><strong>$2,731,555</strong></td>
<td><strong>$2,850,535</strong></td>
</tr>
</tbody>
</table>

| Operating Income               | $42,504 | $252,671| $143,364| $172,958| $205,802|

| Margin on Operating Income     | 3%      | 10%     | 5%      | 6%      | 7%      |
| Depreciation                   | $0      | $63,820 | $128,205| $128,205| $128,205|
| **Total Expenses**             | **$1,184,515** | **$2,321,161** | **$2,693,413** | **$2,859,761** | **$2,978,740** |

| Net Income                     | $42,504 | $188,851| $15,159 | $44,752 | $77,596|
| Transfers In (Gifts)           | $5,000,000| $0      | $0      | $0      | $0      |
| Transfers Out (Construction)   | $2,488,973| $2,511,027| $0      | $0      | $0      |
| **Net Change in Assets**       | **$2,553,531** | **($2,322,176)** | **$15,159** | **$44,752** | **$77,596** |

| Beginning Fund Balance         | $0      | $2,553,531| $231,355| $246,514| $291,266|
| Ending Fund Balance            | $2,553,531| $231,355| $246,514| $291,266| $368,862|

* Proposed three (3) new faculty lines will be filled subject to availability of funds and resources.
Table 9: Resource Requirements

**TOTAL RESOURCE REQUIREMENT FOR THE PROPOSED NEW UNIT**

<table>
<thead>
<tr>
<th>(Dollars in thousands)</th>
<th>YR1</th>
<th>YR2</th>
<th>YR3</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Total Resources Requirements</td>
<td>1,192</td>
<td>2,257</td>
<td>2,565</td>
</tr>
<tr>
<td>2. Resources Available from Federal Sources</td>
<td>305</td>
<td>1,167</td>
<td>1,225</td>
</tr>
<tr>
<td>3. RESOURCES AVAILABLE FROM OTHER NON-STATE SOURCES</td>
<td>392</td>
<td>697</td>
<td>790</td>
</tr>
<tr>
<td>4. Existing State Resources</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Resources Available from Internal Reallocation</td>
<td>530</td>
<td>585</td>
<td>630</td>
</tr>
<tr>
<td>6. New State Resources Required</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Breakdown: New State Resources Required</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. FTE Staff</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Personnel Services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Equipment and Instructional Needs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. PO&amp;M</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 10: Grants and Contracts Available in Year 1

<table>
<thead>
<tr>
<th>Award Title</th>
<th>PI Full Name</th>
<th>Originating Sponsor Name</th>
<th>Originating Sponsor Type</th>
<th>Award Action Direct Costs</th>
<th>Award Action F&amp;A Costs</th>
<th>Award Actions Total Sponsor Costs</th>
<th>Project Start Date</th>
<th>Project End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collaborative Research: Understanding range limits and plant migration in response to climate change in Neotropical montane forests</td>
<td>Feeley, Kenneth J</td>
<td>National Science Foundation</td>
<td>Federal</td>
<td>$126,984.00</td>
<td>$33,016.00</td>
<td>$160,000.00</td>
<td>2013-03-15</td>
<td>2016-02-29</td>
</tr>
<tr>
<td>CAREER: Measuring the thermal tolerances of individuals, populations, and species and predicting plant species’ responses to climate change in the tropical Andes,” is under the direction of Kenneth Feeley.</td>
<td>Feeley, Kenneth J</td>
<td>National Science Foundation</td>
<td>Federal</td>
<td>$590,741</td>
<td>$590,741</td>
<td>2014-08-01</td>
<td>2019-07-31</td>
<td></td>
</tr>
<tr>
<td>Evaluating Effects of Fire Treatments on the Exotic Fuel Lygodium Microphyllum Growth and Reproductive Output</td>
<td>Richards, Jennifer H</td>
<td>National Park Service</td>
<td>Federal</td>
<td>$114,051.92</td>
<td>$19,959.08</td>
<td>$134,011.00</td>
<td>2012-10-01</td>
<td>2015-09-30</td>
</tr>
<tr>
<td>R-EMAP IV</td>
<td>Richards, Jennifer H</td>
<td>National Park Service</td>
<td>Federal</td>
<td>$10,701.34</td>
<td>$1,872.74</td>
<td>$12,574.08</td>
<td>2013-07-03</td>
<td>2015-12-31</td>
</tr>
<tr>
<td>Award Title</td>
<td>PI Full Name</td>
<td>Originating Sponsor Name</td>
<td>Originating Sponsor Type</td>
<td>Award Action Direct Costs</td>
<td>Award Action F&amp;A Costs</td>
<td>Award Actions Total Sponsor Costs</td>
<td>Project Start Date</td>
<td>Project End Date</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>-----------------------</td>
<td>--------------------------</td>
<td>--------------------------</td>
<td>---------------------------</td>
<td>------------------------</td>
<td>-----------------------------------</td>
<td>--------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>R-EMAP IV</td>
<td>Richards, Jennifer H</td>
<td>National Park Service</td>
<td>Federal</td>
<td>$51,342.23</td>
<td>$8,984.89</td>
<td>$60,327.12</td>
<td>2013-07-03</td>
<td>2015-12-31</td>
</tr>
<tr>
<td>R-EMAP IV</td>
<td>Richards, Jennifer H</td>
<td>National Park Service</td>
<td>Federal</td>
<td>$92,089.30</td>
<td>$16,115.63</td>
<td>$108,204.93</td>
<td>2013-07-03</td>
<td>2015-12-31</td>
</tr>
<tr>
<td>Conservation ecology of selected plants in Halmahera, Indonesia Graduate Assistantship for Melissa Abdo</td>
<td>Liu, Hong</td>
<td>Fairchild Tropical Botanic Garden</td>
<td>Foundation</td>
<td>$23,460.00</td>
<td>$23,460.00</td>
<td>$23,460.00</td>
<td>2012-01-01</td>
<td>2015-08-31</td>
</tr>
<tr>
<td>Conservation ecology of selected plants in Halmahera, Indonesia Graduate Assistantship for Melissa Abdo</td>
<td>Liu, Hong</td>
<td>Fairchild Tropical Botanic Garden</td>
<td>Foundation</td>
<td>$102.36</td>
<td>$102.36</td>
<td>$102.36</td>
<td>2012-01-01</td>
<td>2015-08-31</td>
</tr>
</tbody>
</table>
Table 11: Detailed Description of ICTB FTE’s

<table>
<thead>
<tr>
<th>POSITIONS</th>
<th>TOTAL ICTB FTE</th>
<th>% OF FTE COVERED ON G&amp;C</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Center Administrative Positions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICTB Director (to be recruited)</td>
<td>.50</td>
<td>0.00%</td>
</tr>
<tr>
<td>Executive Strategic Advisor ICTB</td>
<td>.10</td>
<td>0.00%</td>
</tr>
<tr>
<td>ICTB Dean Maunder PhD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Program Manager</td>
<td>1.0</td>
<td>0.00%</td>
</tr>
<tr>
<td>Administrative Assistant</td>
<td>.50</td>
<td>0.00%</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>2.1</td>
<td>0.00%</td>
</tr>
<tr>
<td><strong>Faculty Positions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICTB Director (to be recruited)</td>
<td>.50</td>
<td>25.00%</td>
</tr>
<tr>
<td>Brad Bennett PhD</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>Eric Bishop von Wettberg PhD</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>Ken Feeley PhD</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>Javier Francisco Ortega PhD</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>Suzanne Koptur PhD</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>Hong Liu PhD</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>Jennifer Richards PhD</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>New Faculty (Year 2)</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>New Faculty (Year 3)</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td>New Faculty (Year 4)</td>
<td>.50</td>
<td>8.00%</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>5.5</td>
<td>9.55%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>7.6</td>
<td>6.91%</td>
</tr>
</tbody>
</table>
APPROVAL FORM

Proposed Title: International Center for Tropical Botany

Proposed Implementation Date: July 1, 2014

Approval of this request for a new center or institute constitutes a commitment by the signatories that the proposed center or institute will adhere to the University and Board of Governors’ Guidelines on Centers and Institutes and will support the mission and goals of the University.

Michael R. Heithaus Ph.D.  
Director of the School of Environment Arts and Society  
5/22/14

Kenneth Furton Ph.D.  
Dean, College of Arts and Sciences  
5/22/14

Andrés Gil, Ph.D.  
Vice President for Research  
5/22/14

Kenneth A. Jessell Ph.D.  
Senior Vice President and CFO  
5/23/14

Douglas Wartzok, Ph.D.  
Provost and Executive Vice President  
2/3/14
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NATIONAL TROPICAL BOTANICAL GARDEN - DRAFT
Approval of Gift and New Educational Site
National Tropical Botanical Garden (NTBG) in Coconut Grove

- NTBG, a Congressionally chartered not-for-profit corporation, operates botanical gardens in Hawaii and *The Kampong* botanical garden in Miami, Florida.
- NTBG is donating to FIU three lots adjacent to the main *Kampong* garden.
- The Batchelor Foundation, Inc. and the William R. Kenan, Jr. Charitable Trust are each donating to FIU $2.5 Million for the construction of a $5 Million facility that will be used to establish the FIU International Center for Tropical Botany (ICTB).
- The ICTB will be dedicated to the study of tropical plants and the resources they provide with a goal of developing solutions that ensure the conservation and sustainable use of tropical plants.
- The ICTB will also provide research-based knowledge and tools to preserve and sustainably use tropical plants and will foster programs to educate future generations of tropical plant biologists.
• Approximately 17 existing College of Arts and Sciences faculty will be affiliated with the ICTB.
• Expenses (beyond existing base E&G salaries) are $1,425,000 in year 1 and ramp up to $2,335,000 in year 5 as the program matures.
• The primary drivers for the increases in expenses in year 5 are:

<table>
<thead>
<tr>
<th>Operating Expenses</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries for Research Faculty and Staff ($119,000) and Executive Director and Support Staff ($180,000)</td>
<td>$299,000</td>
</tr>
<tr>
<td>Instructional Workshops</td>
<td>$186,000</td>
</tr>
<tr>
<td>Plant, Operations and Maintenance/IT</td>
<td>$141,000</td>
</tr>
<tr>
<td>Sponsored Research Direct Costs</td>
<td>$1,232,000</td>
</tr>
<tr>
<td>Reserves for Replacement/University Fees/Other</td>
<td>$252,000</td>
</tr>
<tr>
<td>Foundation Grant Direct Costs</td>
<td>$225,000</td>
</tr>
</tbody>
</table>
Revenues

- Revenues (beyond existing base E&G salaries) are $1,491,000 in year 1 and ramp up to $2,412,000 in year 5 as the program matures.
- The primary drivers for the revenues in year 5 are:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Instructional Workshops</td>
<td>$480,000</td>
</tr>
<tr>
<td>Foundation Grants</td>
<td>$300,000</td>
</tr>
<tr>
<td>Contributions</td>
<td>$210,000</td>
</tr>
<tr>
<td>Sponsored Research</td>
<td>$1,422,000</td>
</tr>
</tbody>
</table>
Other Issues

- Title and lien searches, survey, environmental assessments and other due diligence completed.
- No outstanding debt on the parcels.
- FIU may discontinue operations and return all donated property to NTBG.
- Required consultation with Chancellor as part of establishing a New Educational Site was completed May 14, 2014.
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Subject: University City Prosperity Project TIGER Improvements

Proposed Committee Action:
Recommend to The Florida International University Board of Trustees (the BOT) approval to perform the project contemplated by the United States Department of Transportation (USDOT) Grant on the Modesto A. Maidique Campus and in the City of Sweetwater, and authorize the University President or designee to take all actions and execute any documents necessary or desirable in connection with the project.

Background Information:
Florida International University applied for and was awarded a USDOT Grant to support an innovative package of technology, streetscaping and transit improvements to connect the City of Sweetwater with the Modesto A. Maidique Campus. The grant was awarded under the provisions of the federal Further Continuing Appropriations Act, 2013, regarding National Infrastructure Investments. The grant is referred to as the 2013 TIGER Discretionary Grants.

The total project budget is $15,505,663, consisting of $11,397,120 in USDOT funds, $1,060,000 in Federal Transportation Alternatives Program funds and local funds through the Florida Department of Transportation (FDOT), $1,057,482 in FIU matching funds, and $1,991,061 in City of Sweetwater matching funds, including $1,745,800 in City of Sweetwater Right of Way land to be donated to FIU.

Project funds will be used to construct a new signature pedestrian-oriented bridge over SW 8th Street, pedestrian-orientated plazas and walkways, a memorial plaza in the City of Sweetwater and streetscaping elements such as shade trees, street furniture, and lighting. Project funds will also be used for advanced and comprehensive electronic wayfinding systems (Informed Traveler Program and Applications (ITPA), and community transit. The University will acquire, as part of the project, donated real property from the City of Sweetwater for certain portions of the project located on the north side of SW 8th Street.

Board of Governors Regulation 1.001(7)(b) provides in pertinent part: “[E]ach board of trustees shall have the authority to acquire real and personal property and contract for the sale and disposal of same.”

Florida Statute 1013.74(2)(a) provides the University Board of Trustees with the authority to approve the following fixed capital outlay projects:
“Construction of any new buildings, or remodeling of existing buildings, when funded from nonstate sources such as federal grant funds, private gifts, grants, or lease arrangements if such grants or gifts are given for the specific purpose of construction.”

Supporting Documentation: University City Prosperity Project Award Announcement USDOT Grant Agreement

Facilitator/Presenter: Kenneth A. Jessell
UNIVERSITY CITY PROSPERITY PROJECT

APPLICANT/SPONSOR: Florida International University

TOTAL PROJECT COST: $123,809,794

GRANT FUNDING: $11,397,120

PROJECT DESCRIPTION

TIGER funds will be used to support an innovative package of technology, streetscaping and transit improvements to connect the town of Sweetwater with Florida International University (FIU). Together they will increase access to jobs on the FIU campus and link two portions of campus that are currently disconnected. TIGER funds will be used to construct a new pedestrian bridge over a busy arterial road. These infrastructure improvements will support the economic growth of a major public research university and an adjacent small city.

PROJECT HIGHLIGHTS

» Utilizes innovative Intelligent Transportation System features to assist students, university staff, and community members to move efficiently to and through the FIU campus.

» Creates a complete street connection between two portions of the campus currently disconnected, including a new pedestrian bridge over a major street.

» Constructs complete streets improvements and campus walkways with a Boardwalk and Entry Plaza and Pavilion Project on campus.

PROJECT BENEFITS

The project will facilitate transit use and safe pedestrian-oriented transit access via an advanced and comprehensive electronic wayfinding system. This unique and innovative combination of computing technology, transit station improvements, and pedestrian-oriented infrastructure will increase transit ridership and reduce congestion. This innovative approach to campus connectivity is a first-of-its-kind effort that serves as a model for other communities throughout the nation.
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GRANT AGREEMENT UNDER THE
CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT,
2013 (DIVISION F, TITLE I, Pub. L. 113-6, MARCH 26, 2013)
FOR THE NATIONAL INFRASTRUCTURE INVESTMENTS
DISCRETIONARY GRANT PROGRAM
(FY 2013 TIGER DISCRETIONARY GRANTS)

THE FLORIDA INTERNATIONAL UNIVERSITY (FIU) BOARD OF TRUSTEES

UNIVERSITY CITY PROSPERITY PROJECT

FHWA FY 2013 TIGER Grant No. [#]

This agreement (the “Agreement” or “Grant Agreement”) reflects the selection of The Florida International University (FIU) Board of Trustees (“Grantee” or “Recipient”) as a Recipient of a grant awarded under the provisions of the Further Continuing Appropriations Act, 2013 (Pub. L. 113-6, March 26, 2013), regarding National Infrastructure Investments (the “Act”). The grant program under the Act is referred to as “FY 2013 TIGER Discretionary Grants” or “TIGER Discretionary Grants.”

SECTION 1. TERMS AND CONDITIONS OF THE GRANT

1.1 This Agreement is entered into between United States Department of Transportation (“DOT” or the “Government”) and the Grantee. This Agreement will be administered by the Federal Highway Administration (also referred to herein as “FHWA” or the “Government”).

1.2 This Grant is made to the Grantee for the project as described in the Grantee’s Technical Application (the “Project”), titled “University City Prosperity Project 2013 – Advanced TOD and Informed Traveler Program”, and the negotiated provisions on the Project's material terms and conditions, including the Project’s scope, assurance/confirmation that all required funding has been obtained and committed, and the timeline for completion of the Project.

1.3 The Government, having reviewed and considered the Grantee’s Application and finding it acceptable, pursuant to the Act awards a TIGER Discretionary Grant in the amount of
Eleven Million, Three Hundred Ninety-Seven Thousand & One Hundred Twenty Dollars ($11,397,120), for the entire period of performance (referred to as the “Grant”). This Grant is the total not-to-exceed amount of funding that is being provided by the Government under this Grant Agreement. For urban projects, the Grantee hereby certifies that not less than Two Million Eight Hundred and Forty Nine Thousand Two Hundred Eighty Dollars ($2,849,280) in non-Federal funds are committed to fund the Project in order to satisfy the Act’s requirement that at least twenty percent (20%) of the Project’s costs are funded by non-Federal sources. The Government’s liability to make payments to the Grantee under this Grant Agreement is limited to those funds obligated by the Government under this Agreement as indicated herein and by any subsequent amendments agreed to in writing by all parties.

1.4 The Grantee agrees to abide by and comply with all terms and conditions of this Agreement and to abide by, and comply with, all requirements as specified in the Exhibits and Attachments, identified in paragraphs 1.5 and 1.6, which are considered as integral parts of this Agreement. Each Exhibit and Attachment identified below is deemed to be incorporated by reference into this Agreement as is fully set out herein.

1.5 This Agreement shall also include the following Exhibits as integral parts hereof located at: http://ops.fhwa.dot.gov/freight/infrastructure/tiger/fy2013_gr_exhbt_tmp/index.htm

Exhibit A Legislative Authority
Exhibit B General Terms and Conditions
Exhibit C Applicable Federal Laws and Regulations
Exhibit D Grant Assurances
Exhibit E Responsibility and Authority of the Grantee
Exhibit F Reimbursement of Project Costs
Exhibit G Grant Requirements and Contract Clauses
Exhibit H Quarterly Progress Reports; Format and Content

1.6 This Grant Agreement shall also include the following Attachments as integral parts hereof:

Attachment A Statement of Work
Attachment B Estimated Project Schedule
Attachment C Estimated Project Budget
Attachment D Performance Measurement Table

1.7 In the case of any inconsistency or conflict between the specific provisions of this Grant Agreement, the Exhibits, and the Attachments, such inconsistency or conflict shall be resolved as follows: First, by giving preference to the specific provisions and terms of this Grant Agreement; second, by giving preference to the provisions and terms of the Exhibits; and, finally by giving preference to the provisions and terms in the Attachments.
SECTION 2. GRANTEE AND PROJECT INFORMATION

Grantee, in accordance with the requirements of the TIGER Discretionary Grant Program, provides the following information:

2.1 Project’s Statement of Work Summary (for further information see Attachment A):

The University City Prosperity Project will link the town of Sweetwater and Florida International University through technology improvements, streetscaping and transit services. This Project will create an electronic wayfinding system useful for people to travel to and through the FIU campus and creates a complete street to connect two portions of the campus that are currently disconnected. It also includes a new pedestrian bridge over a busy arterial route.

2.2 Project’s Schedule Summary (for further information see Attachment B):

- Actual Completion of NEPA: February 25, 2014
- Planned Release of RFP/PS&E Approval: May 20, 2014
- Planned Design/Build Contract Award: March 30, 2015
- Planned Start Date of Design-Build: April 10, 2015
- Planned Start Construction: December 29, 2015
- Planned Project Construction Substantial Completion and Open to Traffic: December 29, 2017

2.3 Project’s Budget Summary (for further information see Attachment C):

TIGER Grant Funds and Additional Sources of Project Funds:

- TIGER Discretionary Grant Amount: $11,397,120 73.5%
- Other Federal Funds (TAP\(^1\)): $1,000,000 6.5%
- State Funds (FDOT): $60,000 0.4%
- Local Funds ** (City of Sweetwater): $1,991,061 12.8%
- Other Funds (FIU): $1,057,482 6.8%
- Total Project Cost: $15,505,663 100.0%

** Local funds include $1,745,800 in donated City of Sweetwater RoW.

If there are any cost savings or if the contract award is under the engineer’s estimate, 23 C.F.R. 630.106(f) shall not apply to any match for the TIGER Discretionary Grant amount, and the Grantee’s funding amount and percentage share may be reduced, provided that the

\(^1\) FDOT approved Federal Transportation Alternatives Program funding. No match required.
Grantee’s share of the costs under the Act may not be reduced below 20% for urban area projects.

2.4 Project’s State and Local Planning Requirements:

Transportation Improvement Plan: Miami-Dade MPO amended the FY2013/2014 through FY 2017/2018 Transportation Improvement Plan to include the University City Prosperity Project on February 20, 2014.


State Transportation Improvement Plan: FY 2013/2014 through FY 2017/2018 State Transportation Improvement Plan amended to include the Project on February 24, 2014.

2.5 Project’s Environmental Approvals and Processes:

Environmental Documentation Type, Titles and Date: Type 2 Categorical Exclusion February 25, 2014

Environmental Decision Type and Date: Type 2 Categorical Exclusion, February 25, 2014

Name of Agency and Office Approving each Environmental Decision Document:

Federal Highway Administration Florida Division

2.6 Grantee’s and any Sub-Grantee’s Dun and Bradstreet Information:

Dun and Bradstreet Data Universal Numbering System (DUNS) No. of the Grantee: FIU 071298814

Name of any First-Tier Sub-Grantees or Sub-Recipients: N/A

DUNS No. of First-Tier Sub-Grantee or Sub-Recipient: N/A

2.7 Grantee’s Designation of Official Contact (to whom all communications from Government will be addressed):

Kenneth A. Jessell
Chief Financial Officer and Senior Vice President
Florida International University
11200 S.W. 8th Street, 523 PC, Miami Florida 33199
305 348-2101
kjessell@fiu.edu
Notwithstanding paragraph 5.3 of this Grant Agreement, the Grantee may update the contact information listed in this paragraph by written notice (formal letter) to the Government without the need for a formal amendment to this Agreement.

SECTION 3. REPORTING REQUIREMENTS

Subject to the Paperwork Reduction Act, and consistent with the purposes of the TIGER Discretionary Grant Program, Grantee agrees to collect data necessary to measure performance of the Project and to ensure accountability and transparency in Government spending. Grantee further agrees to submit periodic reports to the Government that contain data necessary to measure performance of the Project and to ensure accountability and transparency in Government spending.

3.1 Project Outcomes and Performance Measurement Reports: Grantee shall collect the data necessary to track and report on each of the performance measures identified in the Performance Measurement Table in Attachment D and report results of the data for each measure to the Government periodically, according the reporting schedule identified in Attachment D. Furthermore, Grantee agrees to provide an initial Pre-project Report and a final Project Outcomes Report to the Government.

3.1.1 The Pre-project Report shall consist of current baseline data for each of the performance measures specified in the Performance Measurement Table in Attachment D. The Pre-project Report shall include a detailed description of data sources, assumptions, variability, and the estimated level of precision for each measure. Grantee shall submit the report to the Government by February 29, 2016. Grantee shall represent that the data in the Pre-project Report is current as of November 30, 2015.

3.1.2 Grantee shall submit interim Project Performance Measurement Reports to the Government for each of the performance measures specified in the Performance Measurement Table in Attachment D following Project completion. Grantee shall submit reports at each of the intervals identified for the duration of the time period specified in the Performance Measurement Table in Attachment D. Grantee shall represent that the data in each of the interim Project Performance Reports is current as of the final date of the reporting interval.

3.1.3 The Project Outcomes Report shall consist of a narrative discussion detailing Project successes and/or the influence of external factors on Project expectations. Grantee shall submit the Project Outcomes Report to the Government by February 28, 2024 which includes an ex post examination of project effectiveness in relation to the Pre-project Report baselines. Grantee shall represent that the data in the Project Outcomes Report is current as of December 29, 2023.
3.1.4 Grantee shall submit each report via email to each of the Government contacts identified in paragraph 3.5 of this Agreement and, additionally, to outcomes@dot.gov. The email shall reference and identify in the email subject line the TIGER Grant Number and provide the number of the Performance Measures report submitted, e.g., Re: FHWA FY 2013 TIGER Discretionary Grant No. [#] - Performance Measure Report No. 1 or 2 or 3, etc.

3.2 **Project Progress and Monitoring Reports**: Consistent with the purposes of the TIGER Discretionary Grant Program, to ensure accountability and transparency in Government spending, the Grantee shall submit quarterly progress reports and the Federal Financial Report (SF-425) to the contacts designated by the Government in section 3.5, as set forth in Exhibit H, Quarterly Progress Reports: Format and Content, to the Government on a quarterly basis, beginning on the 20th of the first month of the calendar year quarter following the execution of the Agreement, and on the 20th of the first month of each calendar year quarter thereafter until completion of the Project. The initial report shall include a detailed description, and, where appropriate, drawings, of the items funded.

3.2.1 The Grantee shall submit all required reports and documents to the Government electronically, referencing the Grant number, to the contacts designated by the Government in section 3.5.

3.3 **Annual Budget Review and Program Plan**: The Grantee shall submit an Annual Budget Review and Program Plan to the Government via e-mail 60 days prior to the end of each Agreement year. The Annual Budget Review and Program Plan shall provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming Agreement year. If there are no proposed deviations from the approved Estimated Project Budget, the Annual Budget Review shall contain a statement stating such. The Grantee will meet with the Government to discuss the Annual Budget Review and Program Plan. If there is an actual or projected project cost increase, the annual submittal should include a written plan for providing additional sources of funding to cover the project budget shortfall or supporting documentation of committed funds to cover the cost increase.

3.4 **Closeout Process**: Closeout occurs when all required project work and all administrative procedures described in Title 23 (or 49 C.F.R. Part 18 or Part 19, as applicable) are completed, and the Government notifies the Grantee and forwards the final Federal assistance payment, or when the Government acknowledges Grantee’s remittance of the proper refund. Within 90 days of the Project completion date or termination by the Government, the Grantee agrees to submit a final Federal Financial Report (SF-425), a certification or summary of project expenses, and third-party audit reports.

3.5 All notices or information required by this Agreement should be addressed and sent to all the Government contacts as follows:

FHWA Field (Division or Federal Lands) Contact Designated as Official Contact:
Notwithstanding paragraph 5.3 of this Grant Agreement, the Government may update the contact information listed in this paragraph by written notice (formal letter) to the Grantee without the need for a formal amendment to this Agreement.

SECTION 4. SPECIAL GRANT REQUIREMENTS

There are no special grant requirements for this Project.

SECTION 5. TERMINATION, EXPIRATION, AND MODIFICATION

5.1 Subject to terms set forth in this Agreement, the Government reserves, in its sole discretion, the right to terminate this Agreement and all of its obligations associated with this Agreement, unless otherwise agreed to in a signed writing between the Grantee and the Government, if any of the following occurs:

5.1.1 The Grantee fails to obtain or provide any non-TIGER Discretionary Grant contribution or alternatives approved by the Government as provided in this Agreement and in accordance with paragraphs 2.2 and 2.3;
5.1.2 The Grantee fails to begin construction before **February 29, 2016**;

5.1.3 The Grantee fails to begin expenditure of Grant funds by **April 8, 2016**;

5.1.4 The Grantee fails to meet the conditions and obligations specified under this Agreement including, but not limited to, a material failure to comply with schedule in paragraph 2.2 even if it is beyond the reasonable control of the Grantee, or after giving the Grantee a reasonable opportunity to cure such failure; or,

5.1.5 The Government, in its sole discretion, determines that termination of the Agreement is in the public interest.

5.2 Funds made available under this Agreement shall be obligated by DOT on or before September 30, 2014. Funds made available under this Agreement, once obligated, are available for liquidation and adjustment through September 30, 2019, the “Grant Termination Date.” Unless otherwise agreed to by the parties, this Agreement shall terminate on the Grant Termination Date.

5.3 Either party (the Government or the Grantee) may seek to amend or modify this Agreement prior to the Grant Termination Date by written notice (formal letter) to the other party and in accordance with 49 C.F.R. Parts 18.43 and 18.44. The Grant Agreement may be amended or modified only on the mutual written agreement by both parties. Changes to Attachments B and C (Estimated Project Schedule and Estimated Project Budget) do not require modification through the process in this paragraph if such modifications do not affect the dates or amounts in paragraphs 2.2 and 2.3, and the change has been consented to by the Government in writing consistent with the requirements of FHWA (including by email).

**SECTION 6. AWARD AND EXECUTION OF GRANT AGREEMENT**

6.1 **Counterparts:** This Agreement may be executed in counterparts, which shall constitute one document. This Agreement shall be executed in quadruplicate; each countersigned original shall be treated as having identical legal effect.

6.2 **Effective Date:** The Agreement shall be effective when fully executed by authorized representatives of the Grantee and the Government; provided, however, that the Grantee shall execute this Agreement, and then submit four (4) original signed copies of the Agreement to the Government for execution. When signed and dated by the authorized official of the Government, this instrument will constitute an Award under the Act.

6.3 **Survival:** Notwithstanding anything to the contrary contained herein, the provisions of this Agreement relating to reporting requirements set forth in Section 3 of this Agreement shall survive the expiration or earlier termination of this Agreement.
EXECUTION BY THE GOVERNMENT

Executed this___________ day of ________________, 2014.

____________________________________________
Signature of Government’s Authorized Representative

____________________________________________
Name of Government’s Authorized Representative

____________________________________________
Title
EXECUTION BY THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

By signature below, the Grantee/Recipient acknowledges that it accepts and agrees to be bound by this Agreement.

Executed this_____________ day of ________________, 2014.

______________________________________________
Signature of Grantee’s Authorized Representative

______________________________________________
Name of Grantee’s Authorized Representative

______________________________________________
Title
EXECUTION BY STATE DEPARTMENT OF TRANSPORTATION

By signature below, the State Department of Transportation (SDOT) acknowledges that it agrees to act as a limited agent for the Grantee to assist in the receipt and disbursement of the TIGER Discretionary Grant obligated by this Agreement and to perform such other administrative and oversight duties with respect to the Grant and the Project as the Grantee and the SDOT shall agree upon between themselves. The SDOT acknowledges the fiduciary duty owed to the parties to this agreement and will promptly disburse the TIGER Grant to the Grantee at Grantee’s direction and instructions. Further, the SDOT will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the duties it assumes under this Agreement in compliance with the terms and conditions contained herein.

Executed this______________ day of ________________, 2014.

__________________________
Gus Pego
FDOT District VI Secretary
ATTACHMENT A
STATEMENT OF WORK

The 2013 UniversityCity Prosperity Project consists of the following four components:

i. Pedestrian-Oriented Transit Access Infrastructure Improvements (Infrastructure)
ii. Community Transit Service Development Enhancements (Community Transit)
iii. Informed Traveler Program and Applications (ITPA)
iv. Design/Engineering Services and Construction Management (DES&CM)

Specifically, these project improvements will consist of:

Infrastructure: This part of the Project focuses on pedestrian-oriented transit access infrastructure improvements, that provide for two narrowed traffic lanes and wider sidewalks with landscaping, and pedestrian-oriented streetscaping elements, such as enhanced shade trees, street furniture, street signage, street lighting, a Memorial Plaza in Sweetwater, and an entry plaza located on FIU’s Modesto A. Maidique Campus (Maidique Campus); and a signature pedestrian-oriented shared-use bridge across US 41 (a major arterial roadway located between Sweetwater and Maidique Campus).

Major construction activities, in addition to Right–of-Way, include:
   i. Pedestrian-Oriented Shared-Use Bridge
   ii. Site Preparation, Landscaping & Irrigation
   iii. Utilities (i.e., FPL, electrical, telecom, water,) & Lighting
   iv. Storm Water System
   v. Paving & Parking
   vi. Streetscaping/Furnishings/Equipment
   vii. Professional Fees – Fire Marshall, Surveys
   viii. Plazas, Walkways, Pavilions & AIMS
   ix. Roadway Improvements & AIMS Platform area
   x. Professional Services – Design-Build, Contractor CEI

Community Transit: Community transit will be enhanced through deploying three community transit vehicles that are: 1) rebuilt, repaired, and enhanced ten passenger Small Hybrid-Electric Rubber Tire Trolley to be owned by Sweetwater and operated within UniversityCity between Sweetwater and FIU crossing US 41 on a high frequency; 2) a rebuilt, repaired, and enhanced community transit Back-Up Circulator Bus to accommodate ten or more passengers that is owned by Sweetwater; and, 3) acquiring a multipurpose, ten passenger, “Engineer-on-Wheels” outreach vehicle which will also serve as a community transit back-up vehicle.

Major construction activities include:
   i. Acquire new Engineer-on-Wheels vehicle
   ii. Assess Back-Up Circulator Bus & Compile Parts/Equipment Inventory
iii. Assess Small Hybrid-Electric Trolley & Compile Parts/Equipment Inventory
iv. Rebuild, repair and enhance Back-Up Circulator Bus & Small Hybrid-Electric Trolley
v. Testing vehicles & prepare for full operational use

**ITPA:** The 2013 TIGER funds allocated for the ITPA will be used to deliver a platform to support the first phase of the overall ITPA vision. The ITPA is based on a plan developed in a separate effort led by Miami-Dade Expressway Authority (MDX) to ensure interoperability among the various locally deployed technology systems. The ITPA will develop software that will provide personalized, timely information and advice regarding the most efficient and cost effective travel paths for users in advance of their travel decision points. The ITPA will also provide information to selected members of the traveling public who agree to optimize their trips to and from UniversityCity by using ITPA to secure available parking spaces and to timely access community transit and express transit services. These first ITPA effort will be focused on: FIU transit vehicle and passenger movements in and between the FIU’s Maidique Campus, the Biscayne Bay Campus and the Engineering Center; Sweetwater community transit vehicle and passenger movements within UniversityCity and Sweetwater; a smart parking feature at certain FIU Maidique Campus, Sweetwater, and remote locations connected to FIU by express transit; and, data aggregation and feeds to reduce any traffic delays along US 41 and SW/NW 107th Avenue adjacent UniversityCity.

Major construction activities include:

1. Software Acquisition and Licenses/Development
2. Smart Parking Data Formats Development
3. Garage, Transit and Street Applications Development
4. Sensors, Streetsmart, Aerials and other ITS System Design & Installation
5. Pilot & Communications Plans
7. Construction, Engineering & Inspection (CEI) – Sensors, Streetsmart, Aerials & ITS Elements

**DES&CM:** This component consists of design and engineering services and construction management.

Infrastructure Staff Support and Professional Services for Construction, Design and CEI, including: managing development of design; permitting; right-of-way acquisition/approvals and easements; design-build advertisement and competitive selection award process; construction oversight and approvals activities; code administration (FIU is permitting authority); construction accounting, billing, and payment management; and risk management.

Academic & Other Support for Infrastructure, Community Transit Development & ITPA, including: repair of a used CATS 15-passenger shuttle bus as an Engineer-on-Wheels vehicle; project website creation and updating; outreach efforts using Engineer-on-Wheels for UniversityCity Prosperity Project designs and construction reviews; review design documents and
provide input to Program Committee; review design-build and ATC proposals and provide input to Program Committee; provide construction and design reviews to Program Committee; review designs for real and perceived safety concerns that will enhance usage of public spaces; advice as to ITPA data collection methodology, instruments and analyses from the user point of view; and coordinate transdisciplinary efforts to functionally connect infrastructure, community transit and ITPA improvements and endeavor to construct and deploy all these UniversityCity components as intended consistent with the UniversityCity June 3, 2013 submittal for TIGER Discretionary Grant funding.
## ATTACHMENT B
### ESTIMATED PROJECT SCHEDULE

### INFRASTRUCTURE

**Project Milestone/Deliverable Schedule:**

<table>
<thead>
<tr>
<th>Deliverable/Activity</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actual Completion of NEPA:</td>
<td>N/A</td>
<td>February 25, 2014</td>
</tr>
<tr>
<td>Planned Release of PS&amp;E/RFP Package Approval:</td>
<td>N/A</td>
<td>May 20, 2014</td>
</tr>
<tr>
<td>Planned Design/Build Construction Advertisement:</td>
<td>June 30, 2014</td>
<td>July 30, 2014</td>
</tr>
<tr>
<td>Planned Firm Selected By FIU and Concurred by FHWA/FDOT:</td>
<td>February 5, 2015</td>
<td>February 19, 2015</td>
</tr>
<tr>
<td>Planned Design/Build Construction Award:</td>
<td>March 30, 2015</td>
<td>March 30, 2015</td>
</tr>
<tr>
<td>Planned Start Date of Design-Build:</td>
<td>April 10, 2015</td>
<td>N/A</td>
</tr>
<tr>
<td>Planned Start Construction Date:</td>
<td>December 29, 2015</td>
<td>N/A</td>
</tr>
<tr>
<td>Pedestrian-Oriented Shared-Use Bridge:</td>
<td>March 1, 2016</td>
<td>September 30, 2016</td>
</tr>
<tr>
<td>Site Preparation, Landscaping &amp; Irrigation:</td>
<td>December 29, 2015</td>
<td>October 15, 2016</td>
</tr>
<tr>
<td>Utilities &amp; Lighting:</td>
<td>January 15, 2016</td>
<td>October 15, 2016</td>
</tr>
<tr>
<td>Paving &amp; Parking:</td>
<td>February 20, 2016</td>
<td>November 30, 2016</td>
</tr>
<tr>
<td>Professional Fees – Fire Marshall, Surveys:</td>
<td>March 1, 2016</td>
<td>May 1, 2017</td>
</tr>
<tr>
<td>Plazas, Walkways, Pavilions &amp; AIMS:</td>
<td>June 1, 2017</td>
<td>December 29, 2017</td>
</tr>
<tr>
<td>Roadway Improvements, AIMS Platform area:</td>
<td>June 1, 2017</td>
<td>December 29, 2017</td>
</tr>
<tr>
<td>Planned Project Construction Substantial Completion &amp; Open to Traffic:</td>
<td>N/A</td>
<td>December 29, 2017</td>
</tr>
<tr>
<td>Planned Final Construction:</td>
<td>N/A</td>
<td>February 9, 2018</td>
</tr>
<tr>
<td>Professional Services – Design-Build, Contractor CEI:</td>
<td>April 10, 2015</td>
<td>March 30, 2018</td>
</tr>
<tr>
<td>Planned Close-Out Documentation:</td>
<td>January 2, 2018</td>
<td>March 30, 2018</td>
</tr>
</tbody>
</table>

---

2 Extended site preparation end date reflects site preparation for AIMS platform.
COMMUNITY TRANSIT SERVICE DEVELOPMENT ENHANCEMENTS
Project Milestone/Deliverable Schedule:

<table>
<thead>
<tr>
<th>Task</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer of Title from FIU to Sweetwater and Operational Agreements:</td>
<td>December 15, 2014</td>
<td>July 1, 2015</td>
</tr>
<tr>
<td>Assess Small Hybrid-Electric Trolley &amp; Compile Inventory:</td>
<td>December 28, 2014</td>
<td>July 1, 2015</td>
</tr>
<tr>
<td>Rebuild, Repair &amp; Enhance Small Hybrid-Electric Trolley &amp; Back-Up Circulator Bus:</td>
<td>July 1, 2015</td>
<td>May 31, 2017</td>
</tr>
<tr>
<td>Complete Testing Vehicles &amp; Prepare for Full Operational Use:</td>
<td>June 1, 2017</td>
<td>December 29, 2017</td>
</tr>
<tr>
<td>Begin Service/Small Hybrid-Electric Trolley &amp; Back-Up Circulator Bus:</td>
<td>December 30, 2017</td>
<td>N/A</td>
</tr>
<tr>
<td>Planned Close-Out Documentation:</td>
<td>January 2, 2018</td>
<td>March 30, 2018</td>
</tr>
</tbody>
</table>

INFORMED TRAVELER PROGRAM AND APPLICATIONS (ITPA)
Project Milestone/Deliverable Schedule:

<table>
<thead>
<tr>
<th>Task</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Public Interest Finding (PIF) and specific scope approval</td>
<td>N/A</td>
<td>May 20, 2014</td>
</tr>
<tr>
<td>Smart Parking Data Formats Development:</td>
<td>September 15, 2014</td>
<td>June 30, 2015</td>
</tr>
<tr>
<td>Garage, Transit &amp; Street Applications Development:</td>
<td>September 15, 2014</td>
<td>March 31, 2016</td>
</tr>
<tr>
<td>Pilot and Communications Plans:</td>
<td>May 31, 2016</td>
<td>September 30, 2016</td>
</tr>
<tr>
<td>ITPA Operational:</td>
<td>December 30, 2017</td>
<td>N/A</td>
</tr>
<tr>
<td>Planned Close-Out Documentation:</td>
<td>January 2, 2018</td>
<td>March 30, 2018</td>
</tr>
</tbody>
</table>
## DESIGN/ENGINEERING SERVICES & CONSTRUCTION MANAGEMENT (DES & CM)

### Project Milestone/Deliverable Schedule:

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Begin DES &amp; CM:</td>
<td>July 1, 2014</td>
<td>March 30, 2018</td>
</tr>
<tr>
<td>Complete Academic and Other Support for Infrastructure, Community Transit Development &amp; ITPA:</td>
<td>July 1, 2014</td>
<td>June 30, 2015</td>
</tr>
<tr>
<td>Complete Infrastructure Staff Support &amp; Professional Services for Design, Construction &amp; CEI:</td>
<td>July 1, 2014</td>
<td>December 30, 2017</td>
</tr>
<tr>
<td>Planned Close-Out Documentation:</td>
<td>January 2, 2018</td>
<td>March 30, 2018</td>
</tr>
</tbody>
</table>
# ATTACHMENT C
## ESTIMATED PROJECT BUDGET

### TABLE 1 – OVERALL PROJECT BUDGET SUMMARY

<table>
<thead>
<tr>
<th>PROJECT COMPONENT</th>
<th>ACTIVITY</th>
<th>TOTAL PROJECT BUDGET</th>
<th>TIGER</th>
<th>OTHER FEDERAL FUNDS (TAP)</th>
<th>FIU</th>
<th>CITY OF SWEETWATER</th>
<th>FDOT</th>
</tr>
</thead>
<tbody>
<tr>
<td>INFRASTRUCTURE</td>
<td>Right of Way **</td>
<td>$1,745,800</td>
<td></td>
<td></td>
<td></td>
<td>$1,745,800</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Design-Build Construction</td>
<td>$10,295,979</td>
<td>$8,548,140</td>
<td>$1,000,000</td>
<td>$588.303</td>
<td>$ 159,536</td>
<td></td>
</tr>
<tr>
<td>COMMUNITY TRANSIT</td>
<td>Community Transit</td>
<td>$ 342,900</td>
<td></td>
<td></td>
<td></td>
<td>$257,175</td>
<td>$ 85,725</td>
</tr>
<tr>
<td>ITPA</td>
<td>Technology/Program Applications</td>
<td>$2,368,836</td>
<td>$2,156,832</td>
<td></td>
<td></td>
<td>$212,004</td>
<td></td>
</tr>
<tr>
<td>DES &amp; CM</td>
<td>Design/engineering services &amp; construction management</td>
<td>$752,148</td>
<td>$692,148</td>
<td></td>
<td></td>
<td>$60,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$15,505,663</td>
<td>$11,397,120</td>
<td>$1,000,000</td>
<td>$1,057,482</td>
<td>$1,991,061</td>
<td>$60,000</td>
</tr>
</tbody>
</table>

** Right of Way donated by City of Sweetwater as part of matching funds
### Table 2 – Infrastructure Project Budget Summary

<table>
<thead>
<tr>
<th>ACTIVITY/TASK</th>
<th>ESTIMATED INFRASTRUCTURE BUDGET</th>
<th>TIGER FUNDS</th>
<th>OTHER FEDERAL FUNDS (TAP)</th>
<th>FIU FUNDS</th>
<th>CITY OF SWEETWATER FUNDS</th>
<th>FDOT FUNDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right of Way **</td>
<td>$1,745,800</td>
<td>$1,745,800</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction, Design, and Professional Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pedestrian-Oriented Shared-Use Bridge</td>
<td>$5,005,440</td>
<td>$4,005,440</td>
<td>$1,000,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Preparation, Landscaping &amp; Irrigation</td>
<td>$922,000</td>
<td>$896,500</td>
<td></td>
<td>$25,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plazas, Walkways, Pavilions &amp; AIMS</td>
<td>$1,500,000</td>
<td>$1,440,000</td>
<td></td>
<td>$60,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roadway Improvements &amp; AIMS Platform Area</td>
<td>$533,125</td>
<td>$101,822</td>
<td></td>
<td>$431,303</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utilities &amp; Lighting</td>
<td>$527,200</td>
<td>$527,200</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Storm Water System</td>
<td>$130,000</td>
<td>$67,500</td>
<td>$32,500</td>
<td>$30,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paving &amp; Parking</td>
<td>$69,364</td>
<td>$55,079</td>
<td></td>
<td></td>
<td>$14,285</td>
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</tr>
<tr>
<td>Professional Services--Design-Build, Engineering</td>
<td>$1,346,505</td>
<td>$1,218,138</td>
<td>$100,493</td>
<td>$27,874</td>
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<tr>
<td>Fire Marshall, Surveys</td>
<td>$250,698</td>
<td>$224,814</td>
<td>$24,006</td>
<td>$1,878</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Streetscaping Furnishings &amp; Equipment</td>
<td>$11,647</td>
<td>$11,647</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Budget</strong></td>
<td><strong>$12,041,779</strong></td>
<td><strong>$8,548,140</strong></td>
<td><strong>$1,000,000</strong></td>
<td><strong>$588,302</strong></td>
<td><strong>$1,905,337</strong></td>
<td></td>
</tr>
</tbody>
</table>

** Right of Way donated by City of Sweetwater as part of matching funds
### Table 3 – Community Transit Budget

<table>
<thead>
<tr>
<th>ACTIVITY/ TASK</th>
<th>ESTIMATED COMMUNITY TRANSIT BUDGET</th>
<th>TIGER FUNDS</th>
<th>OTHER FEDERAL FUNDS (TAP)</th>
<th>FIU FUNDS</th>
<th>CITY OF SWEET-WATER FUNDS</th>
<th>FDOT FUNDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquire new Engineer-on-Wheels Vehicle</td>
<td>$ 52,530</td>
<td></td>
<td></td>
<td></td>
<td>$ 52,530</td>
<td></td>
</tr>
<tr>
<td>Assess Back-Up Circulator Bus &amp; Compile Inventory</td>
<td>$ 7,250</td>
<td></td>
<td></td>
<td></td>
<td>$ 7,250</td>
<td></td>
</tr>
<tr>
<td>Assess Small Hybrid-Electric Trolley &amp; Compile Inventory</td>
<td>$ 21,100</td>
<td></td>
<td></td>
<td></td>
<td>$ 21,100</td>
<td></td>
</tr>
<tr>
<td>Rebuild, Repair &amp; Enhance Small Hybrid-Electric Trolley &amp; Back-Up Circulator Bus</td>
<td>$250,020</td>
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<td>$204,645</td>
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<td>Complete Testing Vehicles &amp; Prepare for Full Operational Use</td>
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<td><strong>$ 85,725</strong></td>
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<td>TIGER FUNDS</td>
<td>OTHER FEDERAL FUNDS (TAP)</td>
<td>FIU FUNDS</td>
<td>CITY OF SWEET-WATER FUNDS</td>
<td>FDOT FUNDS</td>
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<tr>
<td>-----------------------------------------------------------------------------</td>
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<tr>
<td>Software Acquisition &amp; Licenses/Development</td>
<td>$500,000</td>
<td>$500,000</td>
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<td>Smart Parking Data Formats Development</td>
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<td>Garage, Transit &amp; Street Applications Development</td>
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<td>Sensors, Smartstreet, Aerials &amp; other ITS System Design &amp; Installation</td>
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<td>Pilot &amp; Communications Plans</td>
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<td>Software, Application &amp; ITS Testing</td>
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<td>Construction, Engineering &amp; Inspection (CEI)—Sensors, Streetsmart, Aerials, &amp; ITS Elements</td>
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<td>OTHER FEDERAL FUNDS (TAP)</td>
<td>FIU FUNDS</td>
<td>CITY OF SWEETWATER FUNDS</td>
<td>FDOT FUNDS</td>
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<td>Infrastructure Staffing Support &amp; Professional Services for Design, Construction &amp; CEI</td>
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<td>$60,000</td>
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<td>Academic and Other Support for Infrastructure, Community Transit Development, and ITPA</td>
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<td>$60,000</td>
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# ATTACHMENT D
## PERFORMANCE MEASUREMENT TABLE

**Study Area:** University City (within Maidique Campus & Sweetwater north of Flagler Street)

**Table 1: Performance Measurement Table**

<table>
<thead>
<tr>
<th>Measure</th>
<th>Description of Measure</th>
<th>Measurement Period</th>
<th>Reporting Period</th>
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</thead>
<tbody>
<tr>
<td>Parking and Corridor Utilization &amp; User Experience</td>
<td>Pedestrian and bicycle counts and parking utilization, by time of day and while the university is in/out of session, for activities in the study area, and responses to annual surveys (before and after) of users in the study area regarding the following qualitative issues: • Ease of access to the road • Ease of access to the bridge and surrounding study areas • Improved safety • Use of /Access to bike &amp; pedestrian path • Trip origination/destination • Travel purpose and Increased pedestrian and bicycle usage</td>
<td>Baseline Measurement: Annual average, accurate as of November 30, 2015 [29] Interim Performance Measures: Accurate as of December 29, 2018, annually</td>
<td>Baseline Measurement: February 29, 2016  [29] Interim Performance Measures: For a period of 5 years, beginning February 28, 2019 annually</td>
</tr>
<tr>
<td>Real Estate Impacts &amp; Customer Project Area Perceptions</td>
<td>Annual count of recorded real estate transactions and gross increase in value of properties within a 1 mile and 3 mile radius of the project site before the project and then annually for 3 years after the project opens for operation under normative conditions, and responses to customer &quot;intercept&quot; annual surveys (before and after) of users in the study area while the university is in session, to gauge: • reaction to the reconstruction project • prospective views of the study</td>
<td>Baseline Measurement: November 30, 2015 [29] Interim Performance Measures: Accurate as of December 29, 2018, annually</td>
<td>Baseline Measurement: February 29, 2016  [29] Interim Performance Measures: For a period of 5 years, beginning February 28, 2019 annually</td>
</tr>
<tr>
<td>area</td>
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<tr>
<td>• household demographics</td>
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<tr>
<td>• tenure information</td>
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<tr>
<td>• socioeconomic characteristics</td>
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</tbody>
</table>
University City Prosperity Project

Project Description:

TIGER funds will be used to support an innovative package of technology, streetscaping, and transit improvements to connect the town of Sweetwater with Florida International University (FIU). Together they will increase access to jobs on the FIU campus and link two portions of campus that are currently disconnected. TIGER funds will be used to construct a new pedestrian bridge over a busy arterial road. These infrastructure improvements will support the economic growth of a major public research university and an adjacent small city.

Project Highlights:

• Utilizes innovative Intelligent Transportation System features to assist students, university staff, and community members to move efficiently to and through the FIU campus

• Creates a complete street connection between two portions of the campus currently disconnected, including a new pedestrian bridge over a major street

• Constructs complete streets improvements and campus walkways with a Boardwalk and Entry Plaza and Pavilion Project on campus
Project Award

- Total Project Award is $15.5 Million
- Sources of Funding

<table>
<thead>
<tr>
<th>Sources of Funding</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>TIGER Grant</td>
<td>$11,397,120</td>
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<td>Federal Transportation Alternatives Program</td>
<td>$1,000,000</td>
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<tr>
<td>Florida Department of Transportation</td>
<td>$60,000</td>
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<tr>
<td>City of Sweetwater</td>
<td>$1,991,061</td>
</tr>
<tr>
<td>FIU</td>
<td>$1,057,482</td>
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</tbody>
</table>
Project Award

• City of Sweetwater funding includes $1,745,800 in Right of Way that will be transferred to FIU as a grant requirement.
  o Right of Way is for Memorial Plaza and Sidewalks in the City of Sweetwater
  o Right of Way contains 23,277 square feet

• Project starts in June 2014 and completion date is in March 2018
The project consists of four components:

- **Infrastructure ($12M)**
  - Signature Pedestrian –Oriented Bridge across SW 8th Street
  - Memorial Plaza in the City of Sweetwater
  - Sidewalk and Plazas
  - Street Lighting and Landscaping

- **Community Transit ($350,000)**
  - Three community transit vehicles operated by the City of Sweetwater
Project Components and Budget

• **Informed Traveler Program and Applications “ITPA” ($2.4M)**
  - Developed software providing efficient and cost-effective travel paths in advance of travel
  - Initial focus on travel to and from University City, transit vehicles and smart garage parking

• **Design/Engineering Services & Construction Management ($750,000)**
  - Support staff for infrastructure, community transit and ITPA
Approximate Boundaries of Overall Site
FIU From 109 Tower Across 8th Street
Looking South
Bridge Location
Signature Bridge Renderings Example
Walkability Improvements
From Pedestrian Bridge to Smart Garage & Campus Center
Pedestrian Plaza and Preferred Pathway to Campus Center
Intended Pedestrian Path Connecting 8th Street Improvements to Campus Center
Right of Way

Brothers to the Rescue Memorial Plaza area in the University City
Brothers to the Rescue Memorial Plaza
Next to 109 Tower

Creating Sweetwater Public Space
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Subject: New Biscayne Bay Campus Student Housing Project

Proposed Committee Action:
Authorize the University President or designee to (i) enter into a Sublease Agreement and Operating Agreement with NCCD-Biscayne Properties LLC (“NCCD-Biscayne”), a single member limited liability company owned by National Campus and Community Development Corporation (“NCCD”), on substantially the same terms as described herein, and (ii) take all actions and execute all other incidental documents necessary or desirable in connection with NCCD-Biscayne’s development, construction and operation of the Student Housing Project, including, but not limited to, granting easements and licenses on the Biscayne Bay Campus.

Background Information:
On October 4, 2013, FIU issued FIU ITN 34-003 for the development of a residence facility on Biscayne Bay Campus (BBC) to be fully planned, designed, constructed, financed, owned, operated and maintained by an outside party. The anticipated benefits of this collaboration are to fulfill students’ needs for safe, high-quality on-campus housing facilities at BBC which encompass convenient, well-appointed accommodations within proximity of FIU classrooms, offices and campus amenities.

An evaluation committee with representatives from the student body, the Office of Students Affairs, the Office of the Vice Provost at BBC, and the Office of Finance and Administration selected from a pool of eight proposals, a proposal led by Servitas LLC (“Servitas”), based on the proposed project’s fit with FIU’s priorities, consideration paid to FIU, corporate profile, development experience, and facility design. A description of the companies that make up the Project team is attached hereto as Appendix A-Project Team.

The selected Project will be a facility containing approximately 618 beds in a 9-story facility totaling approximately 297,000 square feet, a resort-style swimming pool and
other amenities constructed on approximately 3.5 acres of land (no more land than is reasonably required to accommodate the Project will be provided). The Project will include approximately 7,500 square feet of space for FIU’s exclusive use (classrooms, Student Services and/or Business Services) at no cost to FIU and parking spaces for the residents at a ratio of approximately one space for every two beds. Renderings of the Project are attached hereto as Appendix B – Renderings of the project.

The tenants of the Project will be FIU students. Should expected occupancies not be met, FIU faculty, staff, other FIU approved groups and students of other institutions of higher education may also be tenants of the Project. Construction of the facility will be done in a two-phase approach to the interior buildout and finishing. The first phase, comprised of approximately 410 beds, is scheduled to be completed in August, 2015. The buildout of the second phase with the remaining 208 beds will be completed and available for occupancy in the Fall 2016 semester. The two phase approach is designed to provide the maximum number of beds at BBC for the Fall 2015 semester.

In order to provide competitive rental rates to students, 30-year tax-exempt debt up to $82,500,000 will be issued for the construction of the project. Taxable debt of up to $500,000 will also be issued to cover the cost of issuance. The Miami-Dade Industrial Development Authority will act as the conduit issuer for this revenue-generating project where the funds generated from rental receipts will be pledged to make payments to bondholders. A table containing the Sources and Uses of funds is included in Appendix C – Sources and Uses of Funds.

Because tax-exempt debt is being issued, the Project must be owned by a tax-exempt entity. A description of the structure of the transaction is attached hereto as Appendix D - Proposed Project Structure.

Extensive assessments of the feasibility of the Project have been made by FIU and our financial advisors, Dunlap & Associates. An independent market demand study commissioned by NCCD and conducted by Alvarez & Marsal Real Estate Advisory Services has substantiated expected demand for the Project.

FIU will grant a long-term sublease to NCCD-Biscayne for a term of 40 years. FIU will also grant easements, licenses and any other rights outside the subleased property as needed for the development and operation of the Project. A copy of the proposed sublease agreement is attached as Error! Reference source not found.. FIU will enter into an operating agreement with NCCD-Biscayne which establishes the various rights and responsibilities of the parties relating to the operation of the Project. A copy of the proposed operating agreement is attached as Error! Reference source not found.. FIU will not have any financial or legal responsibility for the Project. FIU will be limited in its ability to develop additional housing at BBC unless the Project is evaluated by an
outside consultant as being able to continue to meet its debt service coverage ratio. If, and when the Project generates any surplus revenue, FIU will be the recipient of that surplus revenue. FIU will not make any financial commitments to the Project and the credit of FIU and the State of Florida are not being used to support the Project.

Section 1013.171, Florida Statutes, authorizes the FIU BOT to negotiate and enter into a long-term ground sublease of land for purposes of erecting facilities and accommodations which are necessary and desirable to serve the University needs and purposes. Upon receipt of this Board’s approval, approval of the Board of Trustees of the Internal Improvement Trust Fund, through the Division of State Lands, will be obtained. Florida Board of Governors’ approval is not required because this is not a University project.

Supporting Documentation:

- Appendix A - Project Team
- Appendix B – Renderings of the project
- Appendix C – Sources and Uses of Funds
- Appendix D - Proposed Project Structure
- Appendix E - Proposed Draft Sublease
- Appendix F - Proposed Operating Agreement
- Appendix G - Draft Preliminary Official Statement

Facilitator / Presenter: Kenneth A. Jessell
Appendix A - Project Team

Servitas LLC – Program and Development Management
Servitas LLC, headquartered in Irving, Texas, led the response to FIU’s ITN 34-003 and serves as the primary point of contact for FIU, coordinating all details, decisions and project delivers with team members. The firm has served more than 40 universities in 15 states with the delivery of more than 40,000 on-campus beds. Key services in higher education are: market and feasibility analysis, master planning, finance coordination, in-house construction and property management. Servitas LLC has developed the 405-bed, LEED gold certified Lighthouse Commons facility for Edison State College in Fort Myers, Florida with a tax-exempt bond issue of $26,300,000 and 338 beds for Stetson University in DeLand, Florida with a tax-exempt bond issue of $17,015,000.

Servitas Management Group – Property Management and Residential Life Programming
Servitas Management Group manages a variety of student housing property types across the country and developed a deep understanding of student housing operations including: maintenance, marketing, leasing and residence life programming. The firm regularly survey’s students to maintain an awareness of current student preferences and concerns.

Kaufman Lynn – General Contractor
Headquartered in Boca Raton and operating in the South Florida market for 25 years, Kaufman Lynn partners with the right subcontractors and suppliers and is widely experienced in the effects of a coastal environment on construction. Housing facilities are one of Kaufman Lynn's major market sectors. Kaufman Lynn has committed the same team members to the BBC housing project as managed the construction team that just completed the 1,200 bed Innovation Village Student Residence and 600 bed Parliament Hall at Florida Atlantic University.

PGAL - Architecture / Engineering
PGAL is an international practice with 170 professionals offering services in architecture, planning, interior design, engineering and program management. In Florida for more than 30 years the Boca Raton office specializes in a range of building types from on campus housing, higher education, K-12 classroom and academic buildings. In the last decade, PGAL has designed over 20,000 housing units of all sizes and configurations including dozens of campus housing options for universities. Key personnel assigned to the BBC Housing project have worked together in the development of more than 10,000 beds with almost 3,300 beds developed for Florida Atlantic University.
NCCD-Biscayne Properties LLC - Owner
National Campus and Community Development Corporation ("NCCD") of Austin, Texas is a not-for-profit 501(c)3 corporation founded in 2006. NCCD was organized to engage in a broad range of activities that among other things, provides support for universities by financing student housing facilities for the benefit of students, faculty and staff. NCCD will organize a single member Limited Liability Company "NCCD–Biscayne Properties LLC" in Tennessee, of which NCCD will be the only member, to own the project. NCCD–Biscayne Properties LLC will hold development and management agreements with Servitas LLC and Servitas Management Group respectively.

Raymond James – Underwriters
Raymond James is a top 10 underwriter of bond issues for both public and private institutions of higher learning throughout the United States. Since 2006, the firm has managed 528 issues for colleges and universities with a par value of $39.1 billion. Raymond James has extensive experience in the area of privatized student housing, serving as underwriter on more than 60 issues with a total par value of $1.4 billion since 2000. The BBC Housing project will be funded by private placement or a negotiated public offering with Raymond James serving as senior managing underwriter.
Appendix B – Renderings of the project
Master Plan graphic depicting the proposed development on site
Housing Site
View from the Northwest looking toward Biscayne
### SOURCES ANDUSES

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<td>Contingency Reserve</td>
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**TOTAL USES** $83,000,000
Appendix D - Proposed Project Structure
SUBLEASE AGREEMENT

between

THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

and

NCCD BISCAYNE PROPERTIES LLC
<table>
<thead>
<tr>
<th>ARTICLE NUMBER</th>
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<tbody>
<tr>
<td>ARTICLE 1 PROPERTY</td>
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<tr>
<td>ARTICLE 2 TERM</td>
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<td>ARTICLE 3 RENT</td>
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<td>ARTICLE 4 DESIGN AND CONSTRUCTION OF THE IMPROVEMENTS</td>
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<td>ARTICLE 5 USE AND CARE OF PROPERTY BY TENANT</td>
<td>17</td>
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<td>ARTICLE 6 OPERATIONS</td>
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<td>ARTICLE 7 UTILITIES</td>
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<td>ARTICLE 8 ALTERATIONS OR IMPROVEMENTS BY TENANT</td>
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<td>ARTICLE 9 REMOVAL OF PERSONALITY AND OTHER PERSONAL PROPERTY FROM THE IMPROVEMENTS</td>
<td>24</td>
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<td>ARTICLE 10 ACCESS TO PROPERTY</td>
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<td>ARTICLE 11 ALL MAINTENANCE AND REPAIRS BY TENANT</td>
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<td>ARTICLE 12 NO REPAIRS BY LANDLORD; NO PRE-EXISTING CONDITIONS</td>
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<td>ARTICLE 13 DEFAULT</td>
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<td>ARTICLE 14 DAMAGE AND DESTRUCTION</td>
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<td>ARTICLE 15 ASSIGNMENT AND SUBLETTING</td>
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<td>ARTICLE 19 WAIVER</td>
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<td>ARTICLE 20 WAIVER OF LIABILITY/INDEMNIFICATION</td>
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<td>ARTICLE 21 SURRENDER AND HOLDING OVER</td>
<td>34</td>
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<td>ARTICLE 22 CONDEMNATION</td>
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<td>ARTICLE 23 EXCEPTIONS TO DEMISE</td>
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<td>ARTICLE 24 SUBLEASE INURES TO BENEFIT OF ASSIGNEES</td>
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<td>ARTICLE 25 QUIET ENJOYMENT</td>
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<td>ARTICLE 26 NO PARTNERSHIP</td>
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<td>ARTICLE 27 NOTICES</td>
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<td>ARTICLE 28 LANDLORD'S AND TENANT'S MARKS</td>
<td>38</td>
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<td>ARTICLE 29 INTEREST</td>
<td>39</td>
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<tr>
<td>ARTICLE 30 WAIVER OF JURY TRIAL</td>
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SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT (“Sublease”) is made as of the Effective Date (as
hereinafter defined), between THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF
TRUSTEES, a public body corporate of the State of Florida (“Landlord”), NCCD - BISCAYNE
PROPERTIES LLC (“Tenant”), a Tennessee limited liability company. Landlord and Tenant are
each referred to herein as a “Party” and together, the “Parties”.

WITNESSETH:

WHEREAS, Landlord (as successor in interest to the Board of Regents of the State of
Florida) has entered into a Lease Modification Agreement dated April 27, 2007, Lease No. 2727
with the State of Florida Board of Trustees of the Internal Improvement Trust Fund (“Master
Landlord”) (collectively, the “Master Lease”), a copy of which is attached hereto as Exhibit A
and incorporated by reference, pursuant to which Landlord leases its Biscayne Bay campus
(“BBC”) from Master Landlord;

WHEREAS, Landlord is authorized to enter into this Sublease pursuant to the
provisions of the Master Lease and Section 1013.171(1), Florida Statutes, and, upon obtaining
the Master Landlord’s consent;

WHEREAS, Landlord’s institutional missions include teaching, research and service at
the Florida International University (the “University”);

WHEREAS, the availability of safe, quality on-campus residential housing facilities on
BBC which encompass convenient, well-appointed accommodations within proximity to
classrooms, offices, and campus amenities is Landlord’s objective in entering into this Sublease
and related agreements;

WHEREAS, Landlord does not have student housing available at BBC;

WHEREAS, Landlord’s objectives include addressing student needs and the institutional
mission by creating an environment which promotes a living/learning community concept;
providing facilities and resources supportive of residents in and out of class activities; assuring
residents a level of comfort and security in housing facilities either provided by Landlord or
others affiliated with Landlord; accommodating a staffing structure which supports attainment
of these goals; and satisfies housing needs in a cost-effective timely manner;

WHEREAS, Landlord, in an effort to uses its resources in an efficient and effective
manner, has determined that it is in Landlord’s best interest to pursue an arrangement whereby
a qualified private entity shall provide planning, programming and financial analysis, private
financing, design, construction, operation and management of a state-of-the-art student housing
facility and related improvements at BBC;
WHEREAS, Landlord issued FIU BBC Housing ITN No. 34-003 including the above terms, and Tenant submitted the best and final offer;

WHEREAS, Landlord desires to sublease the Property (defined below) to Tenant, and Tenant desires to sublease the Property from Landlord pursuant to the terms, conditions, covenants, and provisions of this Sublease; and

WHEREAS, Tenant expects and intends that the acquisition, construction, furnishing, and equipping of the improvements to be located on the Property will be financed through the issuance by the Miami-Dade County Industrial Development Authority (the “Issuer”) of its industrial development revenue bonds (together with any bonds issued to redeem or refund the same, the “Bonds”) pursuant to a Trust Indenture (as the same may be amended, supplemented, and or restated in accordance with the provisions thereof, the “Indenture”) between the Issuer and Regions Bank, as trustee (together with its successors and assigns in such capacity, the “Bond Trustee”) the proceeds of which will be lent by the Issuer to Tenant in accordance with the provisions of a Loan Agreement (as the same may be amended, supplemented, and or restated in accordance with the provisions thereof and of the Indenture, the “Loan Agreement”); and

NOW THEREFORE, for and in consideration of the covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1
PROPERTY

A. Demise and Description of the Property. Landlord does hereby lease, demise and let unto Tenant, and Tenant does hereby lease, rent and hire from Landlord, certain real property (the “Property”) described on Exhibit B, being a portion of BBC, for purposes of financing, designing, constructing, operating, and managing a resident student housing facility and related improvements, which may include required parking (collectively referred to herein as the “Student Housing Project”) on the terms outlined herein. The Property shall be leased by Landlord to Tenant in its current condition, “AS-IS, WHERE-IS, AND WITH ALL FAULTS”. Tenant acknowledges and agrees that Tenant has had the opportunity to fully inspect the Property and accepts the Property “AS-IS, WHERE-IS, AND WITH ALL FAULTS”. The Property and the Student Housing Project shall be collectively referred to herein as the “Premises.”

B. Use of Premises. Tenant shall use and occupy the Premises only for the Permitted Use (as defined herein). The Permitted Use shall be: (1) designing, engineering, constructing, and operating the Student Housing Project that will include in the aggregate no less than ________________ square feet of developed interior space containing at least 400 beds in phase one and at least 218 in phase 2, with a building footprint of approximately ____________ total square feet, (2) using the Student Housing Project to house Eligible Residents, as defined
herein; (3) the provision of related services and amenities to Eligible Residents and for operating and managing the Student Housing Project and for no other purpose (collectively, the “Permitted Use”). “Eligible Residents” shall mean, in order of acceptance priority, (i) students registered in an academic program at the University; (ii) regular full time faculty of the University; (iii) visiting faculty serving at the University on a temporary basis; (iv) regular full-time staff of Landlord that Landlord has pre-approved in writing; (v) groups participating in any activity sponsored by Landlord, conference, or program that Landlord has pre-approved in writing; and (vi) students registered in an institution of higher learning located in Miami-Dade County with which Landlord either has established an affiliation or other cooperative or coordination agreement or arrangement or has pre-approved in writing. The Student Housing Project shall not be used for any purpose other than a Permitted Use without the advance written consent of Landlord, which consent may be withheld in Landlord’s sole and absolute discretion and without regard to any reasonableness standard or other limitation on such discretion.

C. Title to Improvements and Personalty.

(i) Landlord acknowledges and agrees that title to (i) all improvements comprising the Student Housing Project, including, but not limited to, all buildings, structures, Building Systems, as defined in (iv) below, fixtures, utility lines, pipes, connections and other infrastructure constructed or installed on the Property by Tenant, other than the utility lines, connections and other infrastructure which Tenant is required to transfer by any governmental authority to any governmental authority or to Landlord and (ii) any and all equipment, furniture, furnishings, appointments and other personal property to be located therein, regardless of whether such items are affixed or attached to the Property in any manner (collectively, the “Personalty”), whether now or hereafter acquired during the Initial Term or any Renewal Term (collectively, the “Term”), is and shall remain the sole property of Tenant during the Term. After the date the Term expires or this Sublease is terminated if it is terminated prior to the natural expiration of the Term, any Personalty left on the Property shall be deemed to be a part of the Student Housing Project unless Landlord provides Tenant notice of Landlord’s desire that Tenant remove the Personalty from the Property.

(ii) The Property is being subleased by Landlord to Tenant in accordance with the terms of the Master Lease, subject to all easements, restrictions and other matters recorded in the public records of Miami-Dade County which encumber the Property as of the Effective Date, and as may be amended from time to time, which are listed on Exhibit A attached hereto, and any agreements entered into by Landlord that encumber the Property and future documents of record as long as such future documents (i) do not unreasonably impair Tenant’s ability to use the Premises for the Permitted Use and (ii) do not unreasonably impair Tenant’s other rights under this Sublease (collectively, the “Permitted Exceptions”). Tenant shall have the sole right to claim all depreciation with respect to the Student Housing Project and Personalty during the Term.
(iii) Except as specifically provided herein, upon the expiration or the earlier termination of this Sublease, title to the Student Housing Project and any Personalty that Tenant has not removed from the Property within the time period permitted for such removal shall automatically be transferred to Landlord or if Landlord requests, transferred by bill of sale or other documents reasonably requested by Landlord. **Notwithstanding this provision, Landlord may, at its sole discretion, require Tenant to remove all Tenant Improvements/Personalty at Tenant’s sole cost and expense upon the expiration or earlier termination of this Sublease.**

(iv) If and when Tenant transfers the Student Housing Project to Landlord it shall represent and warrant the following: (a) Tenant owns the Student Housing Project, (b) except as permitted by the provisions of the Loan Agreement, no other party holds a lien or any other interest related to the Student Housing Project, and (c) the Student Housing Project and the Property have been maintained as required by this Sublease. Tenant shall deliver the Property to Landlord in good condition, ordinary wear and tear excepted, with all Building Systems (hereinafter defined) in good working order, ordinary wear and tear excepted. As used herein, the term “Building Systems” shall mean the collective reference to the HVAC, mechanical, electrical and plumbing components of the Student Housing Project; expressly excluding any audio/visual system, any telephone system, any internet system and any security/alarm system in the Student Housing Project. Upon the expiration or the earlier termination of this Sublease, Tenant shall provide Landlord with copies of maintenance records for the Student Housing Project and any information in Tenant’s possession or control relating to the non-compliance of the Property or the Student Housing Project thereon with Applicable Laws pertaining to life-safety, if any, for the five (5) years prior to the date of expiration or earlier termination of the Term.

(v) Tenant shall cooperate in the execution of any documents (in form and substance reasonably acceptable to Tenant and Landlord) which are deemed desirable by Landlord to confer title to the Student Housing Project upon Landlord and in good working order and maintained as required by this Sublease.

(vi) Tenant shall hold a leasehold interest in the Property. During the Term, Tenant shall own the Student Housing Project. In no event shall Tenant be deemed to hold a fee simple interest in the Property.

**ARTICLE 2**

**TERM**

A. **Initial Term:** Tenant shall have and hold the Property subject to the conditions, covenants, and agreements herein set forth for a term commencing on the Effective Date and ending on the date (the “Expiration Date”) that is the last day of the [fortieth] annual anniversary of the date of Substantial Completion (as defined in this Sublease). Upon the request of either Party, the other Party shall execute and deliver a written acknowledgment of the Expiration Date when such date is established in the form of the “Acknowledgement of
Expiration Date” attached to this Sublease as Exhibit E, provided, however, a Party’s failure to execute and deliver such acknowledgment shall not affect either Party’s rights hereunder.

B. Renewal Term: On or before the expiration of the Initial Term, the Parties may agree to extend the Initial Term for an additional term of years at the absolute and sole discretion of the Landlord and on terms that are mutually agreeable to the Parties.

C. Option to Purchase. Landlord shall have the option to purchase the Premises from Tenant, any time after [______________], by delivering written notice to Tenant. The purchase price for the Premises shall be the then-current Fair Market Value (as hereinafter defined).

As used herein, “Fair Market Value” shall mean the price at which the applicable transaction would occur between two willing parties, neither being under any compulsion to enter into such transaction, and both having reasonable knowledge of the relevant facts, as to properly estimate the fair market value at such time. In the event that Landlord gives notice to Tenant and Landlord and Tenant are unable to agree upon the Fair Market Value of the Premises within thirty (30) days after such notice, then the Fair Market Value shall be determined by an MAI appraiser who is mutually satisfactory to Landlord and Tenant with not less than ten (10) years experience appraising properties similar to the Premises in the metropolitan area in which the Premises are located (an “Appraiser”). Landlord and Tenant shall attempt in good faith for a period of ten (10) days to agree upon a single Appraiser; and if Landlord and Tenant are so able to agree, the determination by such single Appraiser of the Fair Market Value for the Premises shall be final and binding on the Parties. If Landlord and Tenant are unable to agree upon a single Appraiser within the above-stated ten (10) day period, then the following procedures shall apply:

(i) Within seven (7) days after the conclusion of the ten (10) day period, each Party shall submit to the other Party an independent third-party Appraiser who must satisfy the qualifications for an Appraiser in this Sublease, and neither of whom (i) may be a present or former employee or business associate (or a relative of any such employee or business associate) of either Landlord or Tenant, or (ii) shall have any other financial or economic interest in, or relationship with, Landlord or Tenant.

(ii) The two Appraisers so selected shall promptly proceed to determine the Fair Market Value of the Premises; and if the two Appraisers agree on such Fair Market Value, their determination shall be final and binding on the Parties. If the two Appraisers so selected are unable to agree on the Fair Market Value but the appraisals are no more than ten percent (10%) apart, computed from the base of the higher appraisal, the two appraisals shall be averaged and the average shall constitute the Fair Market Value of the Premises. If the appraisals differ by more than ten percent (10%), such two Appraisers shall select a third Appraiser (who must satisfy the qualifications for an Appraiser in this Sublease); and if the two Appraisers are unable to agree upon a third Appraiser within fifteen (15) days, then they shall in lieu thereof each select the
names of two willing persons qualified to be Appraisers hereunder and from the four persons so named, one name shall be drawn by lot by a representative of Landlord in the presence of a representative of Tenant, and the person whose name is so drawn shall be the third Appraiser. If either of the first two Appraisers fail to select the names of two willing, qualified Appraisers and to cooperate with the other Appraiser so that a third Appraiser can be selected by lot, the third Appraiser shall be selected by lot from the two Appraisers which were selected by the other Appraiser for the drawing. Any vacancy in the office of the first two Appraisers shall be filled by the party who initially selected that Appraiser, and if the appropriate party fails to fill any vacancy within fifteen (15) days after such vacancy occurs, then such vacancy shall be filled by the other party. Any vacancy in the office of the third Appraiser shall be filled by the first two Appraisers in the manner specified above for the selection of a third Appraiser. The third Appraiser shall, within fifteen (15) days after having been selected, render his or her opinion of which of the amounts proposed by the original two Appraisers most closely represents the actual Fair Market Value of the Premises, and the amount so selected by the third Appraiser shall be the Fair Market Value of the Premises. The fees of such Appraisers shall be shared equally by Landlord and by Tenant. Within seven (7) days after the conclusion of the ten (10) day period, each Party shall submit to the other Party an independent third-party Appraiser who must satisfy the qualifications for an Appraiser in this Sublease, and neither of whom (i) may be a present or former employee or business associate (or a relative of any such employee or business associate) of either Landlord or Tenant, or (ii) shall have any other financial or economic interest in, or relationship with, Landlord or Tenant.

ARTICLE 3
RENT

A. **Base Rent:** Throughout the term of this Sublease, Tenant covenants and agrees to pay to Landlord as Base Rent an amount equal to the Net Available Cash Flow. Until such time as the Bonds and all obligations of Tenant under the Loan Agreement shall have been paid in full, the Net Available Cash Flow shall mean and refer to the amount available to be paid to Landlord in accordance with the provisions of the Indenture, including particularly, Section 510(c) thereof, within thirty (30) days of receipt by Tenant and the Bond Trustee of the annual financial statements and audit report for the corresponding Annual Period (as defined in the Loan Agreement) provided to the Bond Trustee in accordance with the provisions of the Loan Agreement. After the Bonds and all obligations of Tenant under the Loan Agreement shall have been paid in full, Net Available Cash Flow shall mean and refer to the excess, if any, of (a) the gross amount of all rents and all other revenues received in any way or manner from the ownership, use and operation of the Student Housing Project during each Annual Period over (b) the aggregate of all costs and expenses of the Student Housing Project paid or incurred during that same Annual Period in connection with the ownership, use, management, operation, maintenance, repair, marketing, promotion and furnishing of the Student Housing Project, including, but not limited to, the cost and expense of any electric, telephone, internet, cable television, water, sanitary sewer, gas and any other utility service to the Student Housing
Project, all debt service payments to the holders of all leasehold mortgages encumbering the Student Housing Project permitted by this Sublease, and all reserves required or permitted under the terms of this Sublease and the Operating Agreement or under the terms of any leasehold indebtedness secured by Tenant’s leasehold interest under this Sublease. If the Net Available Cash Flow for any year is zero (0) or a negative amount, no Base Rent shall be paid to Landlord hereunder, and it is understood that Landlord is under no obligation, express or implied, to contribute or pay Tenant for any such deficit in Net Available Cash Flow. For purposes of this Sublease, Landlord agrees that Tenant may, in each year of this Sublease, charge rates, fees and charges for the units comprising the Student Housing Project sufficient to comply with all of the covenants and agreements of Tenant contained in the Loan Agreement. Payment of all Base Rent and all other sums due to Landlord under this Sublease shall be made payable to Landlord and delivered to Landlord at the address shown in Section 27 hereof or at such other place as Landlord may notify Tenant from time to time.

B. Additional Rent and Tenant Payments. The term “Additional Rent” shall mean all amounts required to be paid by Tenant under this Sublease other than the Base Rent identified above. The term “Rent” shall mean collectively, Base Rent and Additional Rent. Tenant shall also be responsible for and shall pay at the same time as the payment of Rent, all sales and use taxes assessed by the State of Florida or any other governmental entity on the amount of such Rent or the value of the leasehold interest created hereby or on any other sums due under this Sublease. Landlord acknowledges that payment by Tenant of any Additional Rent hereunder, shall, until such time as the Bonds and all obligations of Tenant under the Loan Agreement shall have been paid in full, reduce the Net Available Cash Flow on a dollar-for-dollar basis.

C. Net Lease. This Sublease is a net lease. The parties acknowledge and agree that Landlord would not enter into this Sublease if the Rent described in this Sublease were not absolutely net to Landlord and if Landlord were to incur any current or future cost, expense or liability whatsoever, foreseen or unforeseen, with respect to (i) the Student Housing Project, (ii) the Property or any portion thereof, (iii) the entitlement of the Property, (iv) other costs related to or necessary for the development of the Property, (v) the construction of the Student Housing Project or any portion thereof, (vi) Tenant’s use of the Property, or (vii) Tenant’s exercise of any other of its rights under this Sublease. Accordingly, Tenant shall pay all expenses, costs, taxes, fees and charges of any nature whatsoever arising in connection with or attributable to the Property or the Student Housing Project (collectively, the “Property Costs”) (in each case, arising from and after the Effective Date), or in any manner whatsoever arising as a result of Tenant’s exercise of, or Landlord’s grant of, the rights described in this Sublease, including, without limitation, all fees of consultants, documentary stamp taxes, sales taxes, intangible personal property taxes, ad valorem real estate taxes, costs of design, permitting and construction of the Student Housing Project, accounting and attorney’s fees, capacity charges, connection fees, impact fees, utility charges and insurance premiums. Notwithstanding the foregoing, in the event the construction and installation of the Student Housing Project necessitates the enhancement, replacement, upsizing, repair or improvement of utilities infrastructure or stormwater facilities, including, without limitation, water, sewer, stormwater,
telephonic and/or electrical lines or other facilities, servicing other portions of BBC (in addition to the Property) (collectively, the “Utility Lines”), then (i) Tenant shall be required to pay, and shall pay, for the costs to connect to the existing Utility Lines to service the Student Housing Project. Tenant’s obligations shall specifically include, but not be limited to, its share of any concurrency obligations, on-site infrastructure improvements, off-site infrastructure improvements, proportionate share payments, and other costs payable with respect to the construction or use of the Student Housing Project.

D. **Payment Provisions.** Tenant shall pay all Rent and all other charges due under this Sublease without notice or demand and without any deductions, set-offs, counterclaims, abatements, suspensions or defenses of any kind. It is the intention of the Parties that the obligations of Tenant shall be separate and independent covenants, that the Rent and all other costs, expenses and charges payable by Tenant shall continue to be payable in all events, and that the obligations of Tenant shall continue unaffected unless the requirement to pay or perform the same shall have been terminated or modified pursuant to an express provision of this Sublease. Tenant shall pay and be responsible for all costs, expenses, obligations, liabilities and acts necessary to and for the proper use, operation, maintenance, repair, replacement, care, occupancy or use (as appropriate) of the Property, the Student Housing Project, and any other landscape or hardscape elements related to the Property or the Student Housing Project arising from and after the Effective Date. Tenant waives all rights now or in the future conferred by law to quit, terminate or surrender this Sublease or the Property or to any abatement, suspension, deferment, or reduction of the Rent or any costs, expenses, obligations, or charges under this Sublease, except as expressly provided in this Sublease.

E. **Default Rate.** If Tenant fails to pay as and when due any amounts due to Landlord, then, in addition to any other remedies available to Landlord under this Sublease, Tenant shall pay Landlord interest on any amount due at the Default Rate (hereinafter defined), from the date the amount is due until it is paid by Tenant.

F. **Payment Obligations.** Tenant shall pay or reimburse Landlord for other costs or expenses incurred by Landlord in connection with this Sublease, the Property, or the Student Housing Project.

G. **Survival.** This Article shall survive the expiration or earlier termination of this Sublease.

**ARTICLE 4**

**DESIGN AND CONSTRUCTION OF THE IMPROVEMENTS**

A. **Minimum Requirements.** Tenant shall at its sole cost and expense, shall finance, construct, and operate the Student Housing Project shall consist of a first-class state-of-the-art resident housing facility on the Premises in accordance with Plans and Specifications (defined below). The Student Housing Project must at a minimum: (a) be developed as one building containing approximately aggregate square feet of developed space; (b) may be
developed in two phases with the first phase open for occupancy for the 2015 fall semester to accommodate at least 400 Eligible Residents and the second phase open no later than for the 2016 fall semester to accommodate an additional 218 Eligible Residents; and (c) be designed to be compatible with BBC as reasonably determined by Landlord, which determination shall not be unreasonably delayed, withheld or conditioned, as long as Tenant complies with the terms of this Sublease.

B. **Design.** Tenant shall enter into the Development Agreement dated as of [____, 2014](collectively, the “University Standards”). Notwithstanding the

design work will be done by an architect or firm of architects licensed by the State of Florida that is selected by Tenant and the Developer pursuant to the Development Agreement (the “Architect”) and that executes an architect’s agreement (the “Architect’s Agreement”) with the Developer. The cost of all professional engineering, surveying, design, and architectural services required by Tenant to prepare the site, design, and construction plans will be paid by Tenant. The design will meet all design and construction standards and requirements for a State of Florida public facility set forth in: (i) Florida International University Design and Construction Standards, (ii) the Campus Master Plan, Architectural Design Guidelines, Element 15, (iii) Florida International University Design Services Guide, (iv) Florida International University policies on sustainable development, and (v) Florida International University Campus Master Plan in effect on the Effective Date (the Florida International University Design and Construction Standards, the Florida International University Design Services Guide, Florida International University policies on sustainable development, and Florida International University Campus Master Plan) in effect on the Effective Date. The most current versions of the components of the University Standards specifically referenced herein are attached hereto as **Exhibit F** (collectively, the “University Standards”). Notwithstanding the foregoing, Tenant, or the Developer on Tenant’s behalf, may submit written requests for reasonable variances from University Standards, and Landlord and Tenant shall work in good faith to resolve any such issues, provide that such variances shall not impact the structural integrity of the construction of the Student Housing Project, be contrary to the Florida Building Code, or impact any life safety requirements under Applicable Law. In addition to any sets of Plans and Specifications (hereinafter defined) or other design documents that must be provided to Landlord’s codes personnel in connection with permitting and otherwise exercising its legal responsibilities relating to the Student Housing Project and to Landlord’s committees which will review the Plans and Specifications as provided below, design documents related to the Student Housing Project will be made reasonably available to Landlord’s Facilities Planning and Construction department personnel for review at a central file room maintained by Tenant during all phases of the design effort in North Miami, Florida.
personnel shall provide reasonable prior written notice to Tenant before accessing such central file room. In designing the Student Housing Project, Tenant’s shall cause the Developer to take into account architectural designs and ambiance of BBC, the location of the Student Housing Project, and the necessity that the final design complements other buildings and facilities in the surrounding area.

The Plans and Specifications shall be subject to the approval of the University’s President or the President’s designee with respect to the site orientation, location, and exterior appearance and compliance with the requirements of this Sublease, such approval not to be unreasonably withheld or delayed provided the Plans and Specifications comply with the requirements of this Sublease. Landlord shall have fifteen (15) Business Days from receipt of three sets of the Plans and Specifications to notify Tenant in writing of its approval or rejection. Failure to respond within the fifteen (15) Business Days shall be deemed disapproval. If Landlord rejects the Plans and Specifications, Landlord shall deliver to Tenant, within such ten (10) Business Day period, detailed written objections with specific changes proposed by Landlord. Tenant shall incorporate such revisions as are reasonably acceptable to Tenant and submit the same for Landlord’s approval or rejection, Landlord having an addition five (5) Business Days in which to approve or reject. Failure to respond within five (5) Business Days shall be deemed an disapproval. The parties shall follow the foregoing procedures for approving the Plans and Specifications until the same are finally approved by Landlord and its Facilities Management Department (such final approval, the “Landlord’s Plans Approval”). The term “Plans and Specifications” shall mean the final construction drawings and specifications for the Student Housing Project and any other exterior alterations to the Property or any area on which any work is to be done.

Tenant shall be required to obtain all zoning type authorizations necessary to construct the Student Housing Project and any associated infrastructure through Landlord’s committee review process and building permits through Landlord’s codes office. Landlord shall use cooperative efforts to assist Tenant in obtaining all zoning type authorizations and building permits necessary to construct the Student Housing Project (collectively, the “Landlord Building Permits”); provided, that, no representative of Landlord shall be obligated to exercise any undue or otherwise inappropriate influence on Landlord’s committees or on representatives of Landlord’s codes office to issue such authorizations and permits. For purposes hereof, a “Landlord Delay” means any delay in the performance of Landlord’s obligations under this Sublease beyond the time periods permitted hereunder for such performance, including but not limited to failure to review Plans and Specifications within the time provided, and any other failure to act in accordance with the terms of this Sublease which actually delays Tenant, all such delays being subject to Force Majeure.

If the Parties cannot agree on the Plans and Specifications (or the conditions of approval in connection therewith), this Sublease may be terminated by Tenant upon written notice to Landlord prior to commencement of construction. Thereafter, the parties shall have no further obligation to the other hereunder except any terms and conditions which expressly survive the termination of this Sublease. Tenant’s right to terminate this Sublease pursuant to this Article 4,
Section B. shall terminate and be of no further force and effect unless Tenant has exercised such right on or before the Commencement Deadline Date.

C. Construction.

   (i) **Commencement Covenant.** Tenant shall use commercially reasonable efforts to obtain all required federal, state, and local land use and building permits, approvals, licenses and consents (collectively, the “Governmental Building Permits”) as soon as reasonably practicable after Landlord’s Plans Approval and the issuance of Landlord’s Building Permits. All applications and related materials must be submitted to Landlord no later than five (5) Business Days prior to submitting, but Landlord will waive this requirement in writing for a discrete submittal or application if Tenant has ensured that Landlord has been involved in the process of such that Landlord is comfortable with the subject matter and specifics of a submittal or application. Subject to Landlord Delay and delay for Force Majeure, Tenant shall commence the construction (i.e., construction of the footers for the Student Housing Project) of the Student Housing Project set forth in the Plans and Specifications on or before ______________________ (such date, the “Commencement Deadline Date”). If Tenant has not commenced the construction of phase one of the Student Housing Project prior to the Commencement Deadline Date, then Landlord shall have the right to terminate this Sublease by providing written notice of termination to Tenant. Thereafter, the Parties shall have no further obligation to the other hereunder except any terms and conditions which expressly survive the termination of this Sublease. Provided that if Landlord does not terminate this Sublease as set forth in the prior sentence, Tenant shall be responsible for and shall pay all costs and expenses set forth in this Sublease.

   (ii) **General Contractor.** All construction work will be done by a general contractor licensed by the State of Florida that is selected by Tenant and the Developer pursuant to the Development Agreement (the “Contractor”) and that executes a construction contract (the “Construction Contract”) with the Developer.

   (iii) **Bond.** Prior to commencement of the Student Housing Project or work by Tenant at or on the Property, Tenant shall provide Landlord with performance and payment bonds, including those required under Florida Statutes 255.05 and Landlord’s policies and procedures (“P&P Bonds”). All P&P Bonds shall be issued on behalf of the Bond Trustee and recorded and certified in accordance with Florida Statutes Section 255.05. The P&P Bonds will cover the faithful performance of the construction contract with the Contractor, the strict compliance with the Plans and Specifications, and the payment of all obligations in the full amount of the construction contract with the Contractor.

   (iv) **Release.** Prior to the commencement of construction, Contractor must deliver to Landlord, in a form reasonably acceptable to Landlord’s attorney, a waiver and release stating the following: an acknowledgment by Contractor that all portions of BBC are owned by the State of Florida; a waiver of any right Contractor may have to a claim of lien of any kind or
nature upon any part of BBC, and a release of Landlord and Master Landlord from all claims that Contractor might have arising out of the construction contract.

(v) **Tenant Responsibility.** Tenant will be required to make, and be responsible for, all site inspections and payment authorizations.

(vi) **Obligation to Minimize Disruption to Adjacent Properties.** During the course of Tenant’s work, Tenant shall cause those working on the Student Housing Project to park trucks and delivery vehicles solely in the staging site described on Exhibit D (the “Staging Site”) and to store materials and temporary structures and other matters incidental to construction in the Staging Site. Tenant shall reasonably cooperate with Landlord to ensure that use and enjoyment of the area surrounding the Property by the occupants thereof, including, but not limited to, Landlord’s faculty, students and staff, and the customers and patrons of Landlord shall be interfered with as little as reasonably possible. Landlord shall reasonably cooperate with Tenant to provide access over BBC to the Property for construction and acknowledges such access will cause unavoidable disruption to portions of BBC, but such access will not by itself constitute a breach of this subsection, provided Tenant complies with its obligations hereunder and pays for any and all damage done by construction traffic.

(vii) **Compliance with Laws and University Standards.** Tenant’s construction of the Student Housing Project and any other approved construction on/or within the Premises shall be performed in a good and workmanlike manner and in accordance with (i) all laws, statutes, regulations, codes, ordinances, orders, permits, and requirements of any federal, state, or local governmental authority having jurisdiction over BBC or the Student Housing Project as well as the orders of the fire marshal, board of fire underwriters, and similar bodies affecting BBC or the Student Housing Project or the management, leasing, use, occupancy, construction, maintenance, repair, or reconstruction thereof (collectively, “Applicable Laws”), (ii) the University Standards in effect as of the date the Plans and Specifications are approved by Landlord and (iii) the Plans and Specifications which are approved by Landlord in accordance with this Sublease.

(viii) **Insurance Requirements.** Tenant shall require Contractor to procure and maintain the following insurance coverages throughout the course of site preparation and construction and shall require all subcontractors providing services in relation to this agreement to carry any and all insurance coverage that adequately covers each subcontractor’s exposure based on the type of services each will provide. All policies shall be with insurance companies authorized to do business in the State of Florida and meeting the requirements for insurance companies set forth in this Sublease. Tenant agrees to furnish a current Certificate(s) of Insurance to Landlord prior to commencement of construction and at the later written request of Landlord as evidence that the following coverages remain in effect:

(a) **Builders Risk Insurance.** Completed value form in amount of protection of not less than 100% of the completed value of the Student Housing Project covering “all risk” perils of loss that includes Windstorm and Flood as
covered causes of loss. The Bond Trustee, Tenant, Contractor, and all subcontractors shall be named insureds.

(b) **Worker’s Compensation and Employer’s Liability Insurance.** Worker’s Compensation insurance shall be obtained in accordance with Chapter 440 Florida Statutes with the prescribed limits of liability for all employees who will be working at the project site whether working for Contractor or any subcontractor.

(c) **Commercial Liability Insurance.** Commercial General Liability including Property products/completed operations, contractual and explosion, collapse and underground (XCU) coverages where required by the risks. The limits of liability must be at least $2,000,000.00 each occurrence, $5,000,000.00 annual aggregate for bodily injury and property damage liability. The limit may include umbrella or excess liability insurance. The policy shall carry an endorsement which names the Bond Trustee, Landlord, Master Landlord and Florida Board of Governors as “Additional Insureds.”

(d) **Comprehensive Automobile Liability Insurance.** All owned, hired, leased or non-owned vehicles used on the construction project shall be covered. Policy limits shall be at least combined single limit of $2,000,000 each accident, for bodily injury and property damage liability. This limit may include umbrella or excess liability insurance. The policy shall carry an endorsement which names the Bond Trustee, Landlord, Master Landlord and Florida Board of Governors as “Additional Insureds.”

(e) **Professional Liability Insurance.** (For Contractor/Subcontractor’s such as an architect/engineer/consultants/etc. providing the design services related to the construction of the Student Housing Project to Landlord’s property.) $5,000,000 per claim and aggregate liability limit. Policies written on a claims made form shall continue for five (5) years following the completion of the performance or the attempted performance of the construction provisions of this agreement. If the coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the effective date or coinciding with the effective date of this agreement the Contractor/Subcontractor must purchase extended reporting (“Tail”) coverage for a minimum of five (5) years following the completion of the performance or the attempted performance of the construction provisions of this Sublease.

The above sub-paragraphs establish minimum insurance requirements. It remains the responsibility of Tenant and/or Contractor to secure and maintain any additional insurance that may be necessary in connection with the construction contract. The absence of a demand for any type of insurance policy or insurance condition, or for higher coverage limits shall not be construed as a waiver of Tenant’s, Contractor’s and all subcontractor’s obligation to carry and
maintain the appropriate types of insurances at limits that are appropriate to the liability exposure associated with this agreement. Landlord does not represent that coverage and limits specified herein will necessarily be adequate to cover Tenant’s, Contractor’s and all subcontractor’s liability.

Tenant waives all rights and claims against Landlord for all losses covered by Tenant’s policies, and waives all rights of subrogation of its insurers. Tenant hereby represents and warrants that Tenant’s insurance policies are now, or shall be prior to the Effective Date, endorsed so that such waiver of subrogation shall not affect Tenant’s rights to recover thereunder.

(ix) **Completion Deadline; Substantial Completion.** Once commenced, subject to Landlord Delays and delays for Force Majeure, Tenant shall prosecute the construction of the both phases of the Student Housing Project to completion with all due diligence. If Tenant has not achieved Substantial Completion (as defined below) of phase one of the Student Housing Project included in the Plans and Specifications by _______2015 (the “Phase One Completion Deadline”), then Tenant shall provide temporary housing for Eligible Residents who have executed leases with respect to apartments in the Student Housing Project. For purposes of this Article, the Term of this Sublease shall be deemed to have commenced as of the date of the Phase One Completion Deadline. If Tenant fails after the Phase One Completion Deadline to continue to diligently prosecute construction of the Student Housing Project for any period in excess of thirty (30) days, subject to Landlord Delay and delay for Force Majeure, then, in the event Tenant fails to prosecute construction of the Student Housing Project within fifteen (15) days after receiving written notice from Landlord, then, Landlord shall have the right to terminate this Sublease, at no cost to Landlord, by giving Tenant written notice of termination.

If Tenant has not achieved Substantial Completion (as defined below) of phase two of the Student Housing Project included in the Plans and Specifications by _______2015 (the “Phase Two Completion Deadline”), then Tenant shall provide temporary housing for Eligible Residents who have executed leases with respect to apartments in phase two of the Student Housing Project.

Tenant shall pay, at Tenant’s sole cost and expense, the cost of the temporary housing which shall include the cost of reasonable transportation of affected students to and from BBC; the cost of the alternative housing until occupancy is provided in the Student Housing Project, and the cost of moving the Eligible Residents from the temporary housing to the Student Housing Project (“Temporary Housing Costs”). In the event an action or inaction of Landlord causes the Phase One Completion Deadline to be extended beyond _______2015, Landlord shall be responsible to pay Tenant, Tenant’s Temporary Housing Costs in an amount equal to the costs associated with the number of days the Completion Deadline was extended beyond _______2015 that were caused by Landlord Delay.

Tenant shall provide information and documents reasonably requested by Landlord to enable Landlord to monitor the performance and progress of the design, permitting and
construction of the Student Housing Project. Landlord shall have the right to attend meetings involving Tenant and Developer and Contractor, subcontractors, consultants and vendors relating to the Student Housing Project and the performance and progress of the work and activities related to the Student Housing Project. Tenant shall promptly notify Landlord in the event of the occurrence of any fact or circumstance reasonably likely to cause the delay in completion of the Student Housing Project and achievement of requirements for occupancy beyond the target Completion Deadline.

(x) If Tenant has not achieved Substantial Completion of phase one and phase two of the Student Housing Project included in the Plans and Specifications by or any extension of such date for each day of Landlord Delay and delay for Force Majeure (as extended, the “Outside Completion Deadline”), then Landlord shall have the right to terminate this Sublease, at no cost to Landlord, by giving Tenant written notice of termination. In the event Landlord terminates this Sublease on the terms set forth in this Sublease then, at the option of Landlord to be exercised within sixty (60) days after such termination, Landlord may, but is not obligated to, complete the Student Housing Project.

(xi) The remedies set forth in the preceding subsection, shall not affect Landlord’s rights and remedies in the event of any other Event of Default by Tenant under this Sublease. The Phase One Completion Deadline and the Outside Completion Deadline shall be extended on a day-for-day basis for each day of Landlord Delay and delay for Force Majeure. In the event this Sublease is terminated by Landlord as provided herein, Landlord shall not require, and shall not be entitled to require, Tenant to remove or demolish any of the Student Housing Project made within the Property and BBC.

(xii) With respect to each phase one and phase two, the terms “Substantial Completion” and/or “Substantially Complete” shall be the date upon which Tenant’s architect executes and delivers, for the benefit of Tenant and Landlord, a Certificate of Substantial Completion in the form of the American Institute of Architects (“AIA”) document G704, indicating completion of all building and site work construction to the respective phase of the Student Housing Project as indicated on the Plans and Specifications, including change order work, and Tenant has obtained from the governing authority a Certificate of Occupancy allowing occupancy of the respective phase of the Student Housing Project. The foregoing definition of Substantial Completion shall be exclusive of immaterial “punch list” work that does not prevent Tenant from occupying, on a permanent basis, the constructed facilities within the Student Housing Project. Within one hundred and eighty (180) days after Substantial Completion of phase one and phase two, Tenant shall provide Landlord with a complete set of the “as built” Plans and Specifications. The “as built” plans shall be subject to the rights of the parties preparing such plans under copyright and other Applicable Laws and shall not be construed to grant Landlord any rights to any trademarked or proprietary elements shown on such plans.

(xiii) In the event of a default by the Developer, the Contractor, or the Architect in connection with the design and/or construction of the Student Housing Project, Tenant shall exercise all of the rights and remedies available to Tenant in each such agreement in consultation
with Landlord. If an Event of Default shall occur and be continuing or if Tenant shall default under the Development Agreement, Landlord may, subject to the rights of the Bond Trustee, assert the rights of Tenant under the terms of the Development Agreement, the Construction Contract, and the Architect’s Agreement.

D. **Construction Access.** Landlord shall reasonably cooperate with Tenant in defining and coordinating the ingress and egress routes that all construction traffic must use to access the Property. Until the construction of the Student Housing Project has been finally completed, Landlord shall provide to Tenant non-exclusive licenses and rights of ways over the sidewalks, parking lots and roadways on BBC in order to provide ingress and egress of pedestrians and vehicles to and from the Property and/or to and from a duly open public street. Landlord shall have the right to change the locations of any such licenses or rights of way, as it sees fit, as long as such changes do not unreasonably interfere with the construction of the Student Housing Project or prohibit Tenant’s access to an open public street.

E. **Other Easements, Licenses or Rights of Way.** The Student Housing Project may require easements, licenses or rights of way for utilities and surface water drainage, detention, and retention over portions of BBC, as required by Landlord, Water Management District, and other governmental agencies having jurisdiction over BBC. To effect this provision, Landlord shall grant (or cause to be granted) temporary construction easements, licenses, rights of way, or easements for utilities or surface water drainage, detention, and retention, co-terminous with this Sublease, upon request by Tenant and on terms consistent with this Sublease or any other licenses or easements granted contemporaneously herewith. By way of illustration and not limitation, any documents granting such rights to Tenant shall provide that Tenant shall bear all costs related thereto and to the exercise of the rights granted therein, and Landlord shall have no obligation to expend funds, indemnify or hold harmless any party. Tenant, at its sole cost and expense, shall provide Landlord with the legal descriptions and sketches of the areas to be subject to the easements, licenses and rights of way. Landlord’s failure to grant (or to cause to be granted) within a reasonable period of time (which generally will not exceed thirty (30) days after written request, but may exceed such thirty (30) day period by a reasonable time period in the event the parties have no prior agreement regarding the location to be encumbered by such document) such required easements, licenses or rights of way after Tenant’s request shall be deemed a “Landlord Delay” hereunder. After the execution of such documents, Landlord shall have the right to change the locations of any such easements, licenses or rights of way, as it sees fit, as long as such changes do not create a material, adverse impact on Tenant’s ability to construct and use the Student Housing Project.

F. **Construction Parking.** Tenant’s employees, representatives, vendors, invitees, guests, agents, and contractors (which includes all contractors, subcontractors of all levels, materialmen, and suppliers performing work or supplying material related to the Student Housing Project) must comply with all rules and regulations of Landlord listed in the University Standards; provided that cranes, heavy machinery, dump trucks, concrete trucks and other heavy construction vehicles and equipment that are used on the Student Housing Project site shall not require parking decals subject to the condition that all such vehicles are parked on
and within the Staging Site. If Tenant’s contractors and subcontractors park elsewhere on BBC, they shall be obligated to comply with Landlord’s applicable parking regulations. All vehicles not parked within the Staging Site will require a Landlord issued parking decals. Landlord shall sell all parking decals for Tenant’s employees and Contractor’s and subcontractor’s employees and staff at the rates charged by Landlord from time to time to its students, faculty, staff and employees for similar parking decals.

G. Changes to Plans and Specifications. Tenant shall be permitted to request changes and modifications to the Plans and Specifications from time to time following their initial approval by Landlord. No external aesthetic changes or material changes, modifications or alterations to the Plans and Specifications may be made without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed though the Student Housing Project on the Plans and Specifications must at all times continue to comply with the requirements of this Sublease, including, but not limited to, the University Standards and Applicable Laws, in each case, in effect as of the date of such change, modification or alteration is approved by Landlord. Within ten (10) Business Days after written request from Tenant, Landlord shall either approve the proposed changes to the Plans and Specifications or specify the particular changes with reasonable detail, if possible, which must be made to such document(s) for them to be reasonably acceptable to Landlord. Tenant shall incorporate such reasonable revisions as are reasonably acceptable to Tenant and submit the same for Landlord’s approval or rejection, Landlord having ten (10) Business Days in which to respond.

If Landlord does not notify Tenant in writing within ten (10) Business Days of any changes Landlord desires to be made to the proposed changes to the Plans and Specifications, then Tenant shall deliver a second notice to Landlord requesting Landlord’s approval. If Landlord does not notify Tenant in writing within five (5) Business Days of any changes Landlord desires to be made to the proposed Plans and Specifications after such second notice has been sent to Landlord, then, Landlord shall be deemed to have denied the requested changes and modifications to the Plans and Specifications. The parties shall follow the foregoing procedures for approving changes and modifications to the Plans and Specifications until the same are finally approved by Landlord and Tenant.

H. Compliance With University Standards. Tenant shall comply with the University Standards in connection with the construction of the Student Housing Project and any subsequent modification, renovation or improvement after construction of the Student Housing Project has been completed. Tenant shall at all times ensure the Student Housing Project meets the life safety requirements of Applicable Laws.

ARTICLE 5
USE AND CARE OF PROPERTY BY TENANT

A. Tenant’s Use of Property. Tenant shall operate the Student Housing Project on the Property during the Term under the name of ___________________________or such other
name which is reasonably acceptable to both Landlord and Tenant approved in writing by the Parties, and shall use the Property solely for the Permitted Use, and for no other purpose.

Tenant agrees that it, and the use of the Student Housing Project, is subject at all times to the provisions of the Master Lease, as amended from time to time. Any act or omission by Tenant, any party hired by Tenant, or any of Tenant’s invitees, representatives, licensees, agents, employees, or contractors, that causes a default by Landlord under the Master Lease shall be deemed to be a default under this Sublease entitling Landlord to all remedies provided in this Sublease following expiration of all cure periods hereunder.

B. Nature of Use. Tenant agrees to use and occupy the Premises in a careful, safe and proper manner, in compliance with the requirements of this Sublease and in compliance with University Standards and Applicable Laws. Tenant shall keep the Premises in a clean and safe condition. Tenant shall not do or permit any act or thing which is contrary to any Applicable Laws or which would materially impair the value of the Property, the Student Housing Project, BBC or any part thereof, or which constitutes a public or private nuisance. Tenant, at its expense, after obtaining Landlord’s consent, shall have the right to contest or review by legal, administrative or other proceedings the validity of any such Applicable Laws or the application thereof to Tenant, as long as Tenant initiates such action as early as reasonably possible and diligently pursues it without interruption. During any such proceedings, compliance with any such Applicable Laws may be challenged by Tenant upon the condition that (a) Landlord shall not be in any danger of any civil or criminal liability for failure to comply therewith, (b) the Property shall not be subject to the imposition of any lien as a result of such noncompliance that has not been bonded, (c) the ultimate imposition of or compliance with such Applicable Laws shall not extend beyond the last day of the Term, (d) failure to comply therewith will not adversely impact Landlord’s operations on the rest of BBC, (e) any such action will not reflect unfavorably upon Landlord, and (f) the failure to comply with any such Applicable Laws does not increase the risk of injury to person or property during the pendency of the challenge. Landlord may elect to join in such proceedings, and shall join in such proceedings if required by law in order to prosecute such proceedings. Tenant shall pay to Landlord any third-party costs or expenses (including Landlord’s reasonable legal fees and costs) and Landlord’s internal costs or expenses that are customarily charged by any department of Landlord to other departments of Landlord for similar services provided by such department of Landlord in the ordinary course of the operations of Landlord. If there shall be any refund or damages payable in connection with any proceeding pursued in accordance with this Section, Tenant shall be entitled to receive and retain same. The proceedings referred to herein shall include, but shall not be limited to, appropriate appeals from any judgments, decrees or orders made in any such proceedings.

Tenant shall repair, replace, and maintain all elements of the Student Housing Project, the Premises, any service drive areas, any infrastructure supporting the Student Housing Project or constructed or installed by Tenant which is located in, on or under the Property or is used by any party in connection with the Student Housing Project; provided however that Tenant shall not be required to repair or replace or maintain any roadway, service road,
driveway, parking lot, parking space or sidewalk which is not located on the Property, unless
damage to such areas is caused by Tenant or Tenant’s employees, agents, contractors, licensees
or invitees. Tenant shall also keep the Premises reasonably lighted at all times during the
conduct of its business and as required by the University Standards and any Applicable Laws.
Landlord shall maintain such areas reasonably clear of litter.

C. **Signs and Other Advertising.** Tenant shall not place, erect, or maintain or suffer
to be placed, erected or maintained on any doors or any other surface visible from the outside
or any roof of the Property or any vestibule, or anywhere else visible from the outside, any sign,
lettering, decoration or advertising without first obtaining Landlord’s written consent, which
Landlord may withhold in its sole and absolute discretion. The parties anticipate agreeing to
monument signage on the Property in conformity with University Standards and any other
Applicable Laws, and subject to the prior approval of Landlord of the location, plans and
specifications therefore. Upon the expiration or earlier termination of this Sublease, if directed
by Landlord, Tenant shall remove all such signs and repair all damage caused by such removal.
Such signs shall relate solely to the Permitted Use of the Student Housing Project. All Tenant
signage shall be designed, constructed, installed and maintained at Tenant’s sole cost and
expense. The University’s general signage requirements are summarized on the University
Standards.

D. **Parking.** Following Substantial Completion during the Term, Landlord agrees to
provide access to parking places for the Eligible Residents consistent with Landlord’s plan for
the development of a parking and transportation system for Landlord as provided in the
Operating Agreement.

**ARTICLE 6**

**OPERATIONS**

A. **Aesthetic and Operational Standards.** Without limitation of any of the other
obligations in this Sublease Tenant stipulates and acknowledges that a material condition to
Landlord’s entering into this Sublease is the agreement by Tenant to maintain and operate the
Student Housing Project or within the Premises at a building standard which is consistent with
the University Standards. It is the intent of the parties that the Student Housing Project will be
operated as a well-maintained facility with all Building Systems in good, working condition for
the Permitted Use in all material respects in accordance with the provisions of the Operating
Agreement. Tenant shall not use or permit the Student Housing Project to be used for any
unlawful, disreputable or immoral purpose or in any way which may adversely reflect upon the
name or reputation of Landlord.

B. **Insurance Requirements During Operation of Facility.** Tenant shall, after the
Student Housing Project are constructed, obtain and maintain at its expense, the following
policies of insurance covering activities performed under and contractual obligations
undertaken during the Term:
(i) **Commercial Property Insurance (Building & Personal Property).** The Student Housing Project shall be insured against loss by fire, lightning, windstorm, flood, sinkhole, vandalism, malicious mischief and other hazards customarily insured by extended coverage, all risk (now known as causes of loss-special form) coverage for their full replacement value, which shall be adjusted from time to time to reflect current replacement value.

(ii) **Worker’s Compensation and Employer’s Liability Insurance.** Worker’s Compensation insured shall be obtained in accordance with Chapter 440 Florida Statutes with the prescribed limits of liability for all employees who will be working on the Property whether working for Tenant, Contractor or any subcontractor.

(iii) **Commercial General Liability Insurance.** Commercial general liability insurance including property, products, completed operations and contractual liability. Limits of coverage shall be at least $5,000,000.00 each occurrence limit for bodily injury and property damage liability. The policy shall carry an endorsement which names the Bond Trustee, Landlord, Master Landlord and the Florida Board of Governors as “Additional Insured.”

(iv) **Comprehensive Automobile Liability Insurances.** All owned, hired, leased or non-owned vehicles used by Tenant shall be covered. Policy limits shall be at least $1,000,000 each accident combined single limit for bodily injury and property damage liability. The policy shall carry an endorsement which names the Bond Trustee, Landlord, Master Landlord and the Florida Board of Governors as “Additional Insured.”

(v) **Boiler and Machinery.** Limit of insurance shall be in an amount equal to the full insurable replacement value of all covered equipment/property located on the Property.

*In Addition to the Coverage Types and Limits above - the Coverage Types and Limits listed below may also be required depending on Tenant’s Operation (Exposure to Loss):*

<table>
<thead>
<tr>
<th>Coverage Type</th>
<th>Minimum Limit</th>
</tr>
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<tbody>
<tr>
<td>Pollution / Environmental Liability</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Liquor Liability</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

All policies of insurance provided for herein shall be issued by insurance companies authorized to do business in the State of Florida and with general policy holder’s rating of not less than A- and a financial rating of not less that Class VIII as rated in the most current available “Best’s” insurance reports. Certificates of insurance shall be delivered to Landlord within ten (10) Business Days after the Effective Date, and thereafter certificates of renewal policies shall be delivered to Landlord upon expiration of the term of each existing policy. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent. If available, all policies of insurance required hereby must contain a provision that the company writing said policy will endeavor to give to Landlord thirty (30) days’ notice in writing in advance of any cancellation or lapse or of any reduction in the amounts of coverage.
Tenant shall carry such additional insurance which may be required to meet any requirements of Applicable Laws. In addition, the liability insurance requirements under this Section C shall be reviewed by Landlord and Tenant every five (5) years for the purpose of reducing or increasing (in consultation with their respective insurance advisors) the minimum limits of such insurance to limits which shall be reasonable and customary for similar facilities of like size and operation in accordance with generally accepted insurance industry standards. The replacement value of the buildings and other insurable improvements of the Property shall be re-evaluated from time to time (but no more frequently than once every five (5) years) at the request of either Landlord or Tenant.

Tenant shall be entitled to adjust, collect and compromise, in its sole discretion, all claims under any of the insurance policies required under this Section B and/or relating to the Student Housing Project to insurers with respect to such claims and to receive the proceeds of any such claims.

In addition to the insurance required to be obtained and maintained by Tenant, if Tenant assigns any portion of the duties under the Agreement in accordance with the terms thereof, each subcontractor or assignee is required to purchase and maintain insurance coverage that adequately covers each subcontractor’s or assignee’s exposure based on the type of services they are providing in connection with this Agreement.

Tenant’s procuring of the required insurance shall not relieve Tenant of any obligation or liability assumed under the Agreement, including specifically the indemnity obligations. Tenant may carry, at his own expense, such additional insurance, as Tenant deems necessary. Landlord recommends Tenant obtain and maintain a policy of business interruption insurance. Tenant shall assist and cooperate in every manner possible in connection with the adjustment of all claims arising out of Tenant’s operations within the scope provided for under the Agreement, and shall cooperate in all litigated claims and demands, arising from said operations, which its insurance carrier or carriers are requested to respond.

The absence of a demand for any type of insurance policy or insurance condition, or for higher coverage limits shall not be construed as a waiver of Tenant’s obligation to carry and maintain the appropriate types of insurances at limits that are appropriate to the liability exposure associated with this agreement. Landlord does not represent that coverage and limits specified herein will necessarily be adequate to cover Tenant’s liability.

C. Operation of Student Housing Project. Upon Substantial Completion of the Student Housing Project, Tenant shall operate the Premises as a student housing facility to serve Eligible Residents and shall enter the Management Agreement (the “Management Agreement”) dated as of ______, 2014 by and between Tenant and Servitas Management Group, LLC, a Texas limited liability company (the “Manager”). Tenant shall not enter into any other management agreement of the Student Housing Project without Landlord’s consent, which consent shall not be unreasonably withheld. It is the intention of the parties hereto that the Student Housing
Project be treated at all times as part of the University’s student housing program on an equal basis, whether or not the Project is managed by the University. To such end, Landlord agrees to:

(i) include the Student Housing Project in all information and marketing materials regarding student housing that it provides to students and prospective students;

(ii) to the extent possible, provide to students residing at the Student Housing Project the same services and access Landlord provides to students in University housing facilities from time to time, including, without limitation, access to Landlord’s computer network and student transportation system;

(iii) take into account the Student Housing Project and its occupancy in any planning for future housing projects on BBC;

(iv) if the Student Housing Project is not being managed by Landlord, implement procedures to assist students in applying for residence at the Student Housing Project.

(v) Tenant shall provide information regarding the Student Housing Project appropriate to assist Landlord in carrying out its undertakings pursuant to this Section and, if Landlord is not the manager of the Student Housing Project, provide in any management contract for the Student Housing Project provisions requiring the Manager (defined below) to implement appropriate procedures to facilitate Landlord’s undertakings pursuant to this Section.

D. Payment of Taxes. Tenant covenants and agrees to pay prior to delinquency all municipal, county, state, federal and other taxes assessed against the Premises are due and owing during the term of this Sublease (“Real Property Taxes”), Tenant’s leasehold interest and Tenant’s Personalty of any kind owned, installed and existing in the Property and on any other matters related to the Student Housing Project assessed or incurred during the Term of this Sublease. Real Property Taxes include all taxes and assessments levied against the Premises. Tenant shall provide Landlord, upon Landlord’s request, with evidence of payment of all taxes which may be due. Tenant shall have the right, at its sole cost and expense, with Landlord’s consent, to contest or review by legal, administrative or other proceedings the validity and amount of any taxes (whether Real Property Taxes assessed against the Premises or personal property taxes assessed against the Premises as specified above on Tenant’s Personalty). Tenant may make such challenge upon the condition that (a) Landlord shall not be in danger of any civil or criminal liability for failure to comply therewith, and (b) the Premises shall not be subject to the imposition of any lien as a result of such noncompliance that has not been bonded. Landlord may elect to join in such proceedings, and shall join in such proceedings if required by law in order to prosecute such proceedings. Tenant shall pay Landlord for any third-party or internal costs or expenses incurred in connection therewith. If there shall be any refund or damages payable in connection with any proceeding pursued in accordance with this Section, Tenant shall be entitled to receive and retain same. The proceedings referred to herein shall include, but shall not be limited to, appropriate appeals from any judgments, decrees or
orders made in any such proceedings. Landlord shall have the right to have the Premises assigned a separate tax parcel ID number and may elect to have Tenant pay all Real Property Taxes directly.

If Tenant fails to pay any taxes which it is required to pay within the time period provided above, Landlord may pay said taxes, together with any and all penalties, at its option, following written notice to Tenant demanding that Tenant pay said taxes and provided Tenant fails to make such payment prior to the expiration of a thirty (30) day cure period following such written notice. All amounts so paid by Landlord shall bear interest at the Default Rate from the date Landlord makes such payment, and said amounts with all interest accrued thereon shall become immediately due and payable as Additional Rent.

In the event there is currently in effect any law providing for the taxation of leases or if any law is enacted or adopted after the date of this Sublease, which changes the laws now in force for taxation of leases, including but not limited to a Goods and Services Tax (GST), or the manner of the operation of any such taxes, or which otherwise imposes a tax either directly or indirectly on this Sublease or the Rent payments received herefrom, Tenant will pay such tax at the same time that Tenant pays the related Rent payments. This provision shall not be deemed to impose liability for any income tax owed by Landlord, whether by reason of this Sublease or otherwise. Tenant’s obligation under this Article 6 shall terminate with respect any Real Property Taxes or any other taxes accrued even if not then due with respect to the Student Housing Project from and after the expiration or termination of the Term.

ARTICLE 7
UTILITIES

A. Installations. Other than Landlord’s obligations to grant utility easements, rights of way and licenses, Tenant shall be solely responsible for the costs of obtaining necessary utility service at its own expense, including, without limitation, the cost of all reservation charges, capacity charges, taxes and other charges incurred in connecting the Student Housing Project to existing utility infrastructure.

B. Utility Charges. Except as set forth in any separate written agreement between Landlord and Tenant regarding utility service, until the expiration or earlier termination of the Term of this Sublease, Tenant shall pay for all utility charges for the Student Housing Project and the Property, including without limitation, electricity, stormwater, water, gas and sewage used in the construction and operation of the Student Housing Project.

ARTICLE 8
ALTERATIONS OR IMPROVEMENTS BY TENANT

During the Term, but subject to the terms, conditions and restrictions set forth in this Sublease Agreement, Tenant shall have the right to make alterations or improvements to the Student Housing Project; provided Tenant shall pay all costs, expenses and charges thereof and that all work be performed in a safe and good and workmanlike manner and in compliance
with Applicable Laws, University Standards, this Sublease and any easement agreement, license agreement or other agreement to which Landlord and Tenant are parties. Tenant shall not make, nor permit to be made, any alterations, additions or improvements (i) materially affecting the structure of the Student Housing Project, (ii) impacting the operations of the Student Housing Project, (iii) which would affect the external aesthetic appearance of any component of the Student Housing Project as described in the Plans and Specifications, (iv) which would materially change the Property as opposed to the Student Housing Project, (v) resulting in the installation of signage on the Premises (vi) which would involve any improvement outside the Property, without prior written approval of Landlord as set forth in this Sublease, which approval shall not be unreasonably withheld, delayed or conditioned. Landlord shall have fifteen (15) Business Days to review such changes and approve or disapprove the proposed plans.

In reviewing any such requests, Landlord shall apply the University Standards to the proposed alteration, addition or improvement and all elements of landscaping. All alterations, additions and improvements shall comply with the requirements of this Sublease. Notwithstanding the foregoing, Tenant shall be permitted to make changes, improvements, modifications, and additions to the interior space of the Student Housing Project, the rooftop equipment, Building Systems, HVAC, exhaust, fans, back-up generators and other building service equipment that are not visible from the exterior of the Student Housing Project and do not otherwise trigger Landlord’s review rights under this Article or replacements of such equipment which are the same or substantially the same and in the same location as the equipment being replaced, without the prior approval of or prior notice to Landlord. Alterations to the interior of the Student Housing Project not triggering Landlord’s review rights under this Article due to their non-structural nature shall not require Landlord’s consent or prior notice.

ARTICLE 9
REMOVAL OF PERSONALITY AND OTHER PERSONAL PROPERTY FROM THE IMPROVEMENTS

All Personality, trade fixtures which are not affixed to the Student Housing Project, furniture, furnishings and signs installed in or to the Student Housing Project by Tenant and paid for by Tenant shall remain the property of Tenant and may be removed by Tenant prior to the expiration or early termination of this Sublease. If Tenant fails to remove such personal property items from the Student Housing Project within this time-frame, such trade fixtures, furniture, furnishings and signs shall become the property of Landlord, unless Landlord elects to require the removal in which case Tenant shall promptly remove the same and restore the Student Housing Project to its prior condition at Tenant’s sole cost and expense. All lighting fixtures, heating and cooling equipment and all other installations and construction to be furnished or performed by Tenant constituting a fixture to the Student Housing Project shall become the property of Landlord on the ending term hereof and shall not be removed from the Student Housing Project. Provided that Tenant has Substantially Completed the construction of the Student Housing Project pursuant to the terms of this Sublease and has maintained the
Student Housing Project as required by this Sublease, Tenant shall not be required to remove or
demolish any of the Student Housing Project from the Property at the expiration or earlier
termination of this Sublease.

ARTICLE 10
ACCESS TO PROPERTY

Landlord may have free access to the Premises at all reasonable times, at its own risk
and expense and upon not less than forty-eight (48) hours prior written notice, for the purpose
of making any alterations or repairs to the Premises which Tenant has failed to make in
accordance with this Sublease, after applicable notice and cure periods expire, or to examine or
inspect the Property. Such action shall not be deemed an eviction or disturbance to Tenant nor
shall Tenant be allowed any abatement of Rent or damages for any injury or inconvenience
occasioned thereby. Neither Landlord nor its agents shall direct or require the Contractor or
any subcontractors or any other consultant of Tenant regarding the Premises to perform or not
perform any act pertaining to the Student Housing Project or the construction thereof outside of
the presence of a Tenant representative. Such access shall be (a) during normal business hours
and (b) subject to Tenant’s right to escort Landlord during such access. Notwithstanding the
foregoing, in the event of an emergency or in the event Landlord has specific and legitimate
concerns regarding safety of persons or property, on or off the Premises, Landlord shall have
access to the Premises at all times and upon reasonable oral notice to the Manager, if any is
reasonably possible, given the circumstances. This Article is not meant to imply that Landlord
has any obligation to provide any services or make any alterations or repairs to the Property or
the Student Housing Project. Landlord and Tenant acknowledge and agree that nothing in this
Sublease is intended to diminish Landlord’s rights to access the Property under Applicable
Laws in its capacity (i) as a building permitting authority and (ii) as the provider of police
services to the Premises.

ARTICLE 11
ALL MAINTENANCE AND REPAIRS BY TENANT

Tenant, at its sole cost and expense, shall keep and maintain the Premises, the Student
Housing Project and every part of each, including, but not limited to, the structure, foundations,
roof, fixtures, paved areas, sidewalks, building mechanical systems, utility/service lines, pipes
and conduit, security grills, facilities, hardscaping, or equipment contained therein, in good
condition and repair and making such replacements as are necessary to keep all components of
the Student Housing Project in first class condition and repair.

ARTICLE 12
NO REPAIRS BY LANDLORD; NO PRE-EXISTING CONDITIONS

A. Landlord’s Duties. No duties shall be imposed upon Landlord to inspect the
Premises and Landlord shall have no duty or obligation to make any repairs whatsoever to the
Premises or any improvements located on the Premises or on BBC.
B. **Tenant’s Duties.** During the Term of this Sublease, Tenant shall be responsible for any violations of Applicable Laws on the Premises or related to the Student Housing Project. If Tenant becomes aware of any such violations of Applicable Laws or the presence of Hazardous Substance or Materials it shall promptly notify Landlord in writing.

**ARTICLE 13**

**DEFAULT**

A. **Default.** This Sublease is made upon the condition that Tenant shall punctually and faithfully perform all of the covenants and agreements to be performed by it as herein set forth. If any of the following events shall occur Tenant shall be deemed in default of this Sublease (“Default” or an “Event of Default”).

(i) Any payment of Rent or any other sums required to be paid to Landlord pursuant to this Sublease, shall at any time be in arrears and unpaid within ten (10) Business Days after receipt of written notice from Landlord that such amount is past due, or

(ii) Any payment required to be made by Tenant pursuant to the terms of this Sublease, shall at any time be in arrears and unpaid within fifteen (15) Business Days after receipt of written notice from Landlord that such amount is past due, or

(iii) There shall be any default on the part of Tenant in the observance or performance of any of the other covenants, agreements or conditions of this Sublease on the part of Tenant to be kept and performed, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant; provided, however, that if such default is of a nature that it cannot be reasonably cured within such thirty (30) day period, then Tenant shall have such time as is reasonably required to cure such default; provided that such reasonable time period shall not exceed 180 days and provided further that Tenant commences the cure within such thirty (30) day period and is diligently pursuing completion of such cure, or

(iv) Failure by Tenant to operate and maintain the Student Housing Project such that it is safe and secure for occupancy by Eligible Residents and any such occurrence or failure continues for a period of thirty (30) days after written notice thereof is given by Landlord to Tenant and the holder of any leasehold mortgage encumbering Tenant’s leasehold interest hereunder, or

(v) Tenant shall file a petition in bankruptcy or be adjudicated bankrupt or file any petition or answer seeking a reorganization, liquidation, dissolution or a similar relief for itself under any present or future federal, state or other statute, law or regulation related to bankruptcy, or make an assignment for the benefit of creditors, or

(vi) Any trustees, receiver or liquidator of Tenant shall be appointed and any action, suit or proceeding be instituted by or against Tenant in such preceding or action shall not have been dismissed within sixty (60) days after such appointment, or
(vii) The leasehold estate hereby created shall be taken (by any governmental entity other than by Landlord) by execution or other process of law, or

(viii) A change in control without the prior written consent of Landlord as described in Article 15, Section B.

B. Notice and Remedies During Tenant’s Default. Except for monetary defaults as described above, in the event of Default by Tenant under this Sublease, Landlord shall provide Tenant with written notice of such Default (a “Default Notice”) and Tenant shall have the time period set forth above (if any) to cure such Default. If Tenant fails to cure the Default within any cure period as herein provided, Landlord shall provide Tenant with a second notice in writing notifying Tenant of Landlord’s intention to terminate this Sublease. Tenant shall have ten (10) days from receipt of Landlord’s second notice to cure such breach. Upon the expiration of such additional ten (10) day cure period, Landlord, as its sole and exclusive remedies under this Sublease, shall be entitled to (i) terminate this Sublease and reenter upon the Premises and take possession thereof, and terminate all rights to use the Premises and collect all sums or amounts with respect to which Tenant may then be in default and accrued up to the date of such termination of this Sublease (including, without limitation, amounts due under the provisions which survive such termination) and (iii) sue Tenant under the provisions of this Sublease for any holdover obligations of Tenant, if any, and (iv) require Tenant to document the conveyance and transfer set forth in this Sublease.

C. Landlord’s Optional Cure Rights. In addition to the foregoing rights of Landlord, if Tenant shall be in default hereunder beyond applicable notice and cure periods, if any, Landlord shall have the option, but not the obligation, to cure the act or failure constituting such default for the account of, at the expense of, Tenant. All such reasonable costs or expenses incurred by Landlord shall be considered Additional Rent hereunder. Landlord shall provide Tenant with thirty (30) days written notice prior to curing any default, provided, however (i) no such notice shall be required for emergency repairs, and (ii) if Tenant’s default would result in the imposition of a lien or the issuance of a tax sale certificate, Landlord shall provide, if possible, notice at least ten (10) days before such lien would be created or tax sale certificate be issued. If Landlord has already terminated this Sublease pursuant to this Article, Landlord’s cure or attempt to cure of any act or failure constituting a default by Tenant (which act or failure occasioned the termination of this Sublease) shall not result in a waiver of such termination by Landlord.

D. Performance by Landlord of Tenant’s Obligation; Interest. If Tenant at any time shall fail to pay any taxes, assessments, or, to make any payment or perform any act required by this Sublease to be made or performed by it, Landlord, without waiving or releasing Tenant from any obligation or default under this Sublease, may (but shall not be obligated to) at any time thereafter make such payment or perform such act for the account and at the expense of Tenant. All sums to be paid by Landlord and all costs and expenses so incurred, shall accrue interest at the Default Rate from the date of payment or incurring thereof by Landlord and shall
constitute Additional Rent payable by Tenant under this Sublease and shall be paid by Tenant to Landlord within thirty (30) days following written demand.

E. Waiver. Tenant waives and releases Landlord from any claims and/or liability for any special, consequential, incidental or punitive damages arising under or in connection with the Premises or this Sublease.

F. Tenant shall not seek an award of damages or the return of any amounts paid by Tenant in connection with the foregoing remedies.

ARTICLE 14
DAMAGE AND DESTRUCTION

Tenant agrees to provide such insurance coverage as required in this Sublease. In the event the Student Housing Project is damaged (“Damage”), Tenant shall give notice to Landlord within five (5) Business Days of such Damage. If the Premises has been “substantially damaged” (as defined hereinafter), then within sixty (60) days, or such longer period as is reasonably required under the circumstances (but not to exceed one hundred twenty (120) days), following any Damage, Tenant, in its sole and absolute discretion, may elect in writing to rebuild or repair such Damage, at Tenant’s expense, or to terminate this Sublease. If Tenant fails to timely make such election, then Landlord may send a written notice to Tenant requesting that Tenant make such election. Tenant’s failure to respond within twenty (20) days after receipt of such written request shall be deemed to be an election by Tenant not to rebuild or repair such Damage. For purposes hereof, “substantially damaged” shall mean if the cost of repairing or replacing the same exceeds fifty percent (50%) of their replacement cost immediately prior to the casualty (excluding the value of foundations, footers and paving). If Tenant elects to not rebuild or restore any such Improvement or part thereof, Tenant agrees to deliver the Premises to Landlord clear of debris, and, at Landlord’s option, Tenant shall demolish/remove any Improvements remaining on the Premises, or those specified in writing by Landlord, no later than two hundred ten days (210) days after the date of the casualty and this Sublease shall terminate on the date Tenant completes the demolition/removal but in any event no later than two hundred ten (210) days after the date of the Damage. If the Student Housing Project is not substantially damaged, Tenant shall promptly rebuild or repair such Damage at Tenant’s sole cost and expense. Repairs and replacements shall be made in accordance with this Sublease. Tenant shall be entitled to adjust, collect and compromise, in its sole discretion, all claims under any applicable insurance policies carried by Tenant, to execute and deliver all necessary proofs of loss, receipts, vouchers and releases required by the insurers and to use any such proceeds as Tenant shall elect in its sole discretion, subject to its obligations under this Article.

ARTICLE 15
ASSIGNMENT AND SUBLETTING

A. General Prohibition. Tenant shall not have the right at any time to assign (whether by operation of law or otherwise) any rights granted by this Sublease or sublet any
portion of the Property (each, a “Transfer”) without the prior written consent of Landlord, which Landlord may withhold in its sole and absolute discretion.

B. Change in Ownership of Tenant. During the Term the following shall be deemed a Transfer: National Campus and Community Development Corporation (the “Corporation”) ceases to own 100% of the membership interests in Tenant, or if the Corporation is dissolved, or if this Sublease is to be transferred by merger, consolidation, liquidation, assignment for the benefit of creditors or by operation of law. Unless Tenant has obtained Landlord’s written consent prior to such a Transfer, which consent Landlord may withhold in its sole and absolute discretion, such a Transfer shall constitute an Event of Default for purposes of this Sublease.

ARTICLE 16
ACCORD AND SATISFACTION

No payment by Tenant or receipt by Landlord of a lesser amount than the rental herein stipulated shall be deemed to be other than on account of the earliest stipulated rent nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord’s right to recover the balance of such rent or pursue any other remedy provided for in this Sublease or available at law or in equity.

ARTICLE 17
MECHANICS AND MATERIALMENS LIENS

Tenant shall not suffer any mechanics or materialmens’ liens or other liens to be filed against the Premises or any other portion of BBC by reason of work, labor, services or materials performed or furnished to Tenant during the Term of this Sublease or related to the Student Housing Project during the Term. If any such lien or any notice of intention to file a lien shall at any time be filed against the Premises, Tenant shall at Tenant’s cost, within fourteen (14) days after the lien or other document is filed, commence and diligently pursue the same to be removed or discharged of record by payment, bond, order of a court of competent jurisdiction or otherwise and shall thereafter diligently pursue such removal or discharge. If Tenant is not able to cause any lien to be removed or discharged of record within thirty (30) days after Tenant becomes aware of such lien, Tenant shall cause the lien to be bonded off within ten (10) days.

If Tenant shall fail to remove or discharge any such lien or any notice of intention to file a lien within the prescribed time, then in addition to any other right or remedy of Landlord, Landlord may, at its option, procure the removal or discharge of the same by payment or bond or otherwise. Any amount paid by Landlord for such purpose, including but not limited to, attorney fees, together with interest thereon at the Default Rate shall be and become due and payable by Tenant to Landlord as Additional Rent.

Nothing contained in this Sublease shall be construed as a consent or agreement on the part of Landlord to subject Landlord’s estate in the Premises to any lien or liability arising out of Tenant’s use or occupancy of the Premises. Tenant covenants and agrees to give any required notices or disclosures to Tenant’s contractors advising that Landlord’s interest in the Premises are not subject to liens arising from Tenant’s construction of improvements on the Property.
ARTICLE 18
LEASEHOLD MORTGAGES

During the Term and subject to the terms of this Sublease, Tenant will have the right to pledge, hypothecate or otherwise encumber from time to time its leasehold interest under this Sublease as security for one or more loans the proceeds of which are used exclusively for the purpose of funding the performance and satisfaction of Tenant’s obligations under this Sublease. Except to the extent expressly agreed to in writing by Landlord, no such leasehold mortgage loan, or any extension, renewal, re-financing or replacement thereof, obtained by or on behalf of Tenant shall impose any obligation or liability whatsoever on Landlord or attach to, encumber or otherwise affect Landlord’s interest in the Premises or the Student Housing Project. The sole recourse of any leasehold mortgagee shall be against Tenant and Tenant’s interest in the Premises and this Sublease. The underlying fee simple title to the Land shall not be mortgaged or encumbered by Tenant. All loans secured by Tenant’s interest in the Premises and this Sublease shall be paid in full before the expiration or earlier termination of the Term, including in connection with Landlord’s exercise of its option to purchase pursuant to Section ___ hereunder.

If, from time to time, Tenant or Tenant’s successors and assigns shall encumber the leasehold estate created by this Sublease and/or Tenant’s in the Premises with a mortgage (a “Leasehold Mortgage”), and if the holder thereof (a “Leasehold Mortgagee”) delivers to Landlord an executed counterpart of such Leasehold Mortgage, together with each assignment thereof certified by such Leasehold Mortgage to be true together with written notice specifying the name and address of such holder and the pertinent recording data with respect to such Leasehold Mortgage, Landlord agrees that, anything in this Sublease to the contrary notwithstanding, from and after the date of receipt by Landlord of such notice and for the term (duration) of such Leasehold Mortgage, the following provisions shall apply:

(a) Consent to Amendment. There shall be no cancellation, surrender or modification of this Sublease by Landlord or Tenant without the prior written consent of any Leasehold Mortgagee. Notwithstanding the foregoing (but, in any event, subject to a Leasehold Mortgagee’s curative rights set forth in paragraphs C. and D. hereof), nothing herein shall be deemed to prohibit Landlord from terminating this Sublease in accordance with its terms or exercising its option to purchase as provided for in this Sublease. Except for a refinancing pursuant to this Article 18, there shall be no material modification in the Leasehold Mortgage or related documentation without Landlord’s prior written consent.

(b) Notices to Leasehold Mortgagees. Landlord, upon serving Tenant with any notice of an Event of Default, failure to comply, or termination, shall simultaneously serve a copy of such notice on any Leasehold Mortgagee. In the event Landlord shall serve Tenant with a notice of a failure to comply with any term, covenant, condition, or provision hereof, the Leasehold Mortgagee shall then have the same period after service of the notice on it as is given to Tenant hereunder to remedy or cause to be remedied such failure, and Landlord shall accept performances by or at the instigation of any Leasehold Mortgagee as if it had been done by
Tenant. Any notice required to be given to any Leasehold Mortgagee shall be posted in the United States mail, postage prepaid, certified, return receipt requested (and wired by telegraphic means or transmitted by facsimile transmission) and addressed to the Leasehold Mortgagee at the address and to the attention of the person designated to Landlord by such Leasehold Mortgagee to receive copies of such notices and shall be deemed to have been served as of the date the said notice is received or refused by such Leasehold Mortgagee.

(c) Curative Rights of Leasehold Mortgagees. In addition to the rights granted to any Leasehold Mortgagee under paragraph B. of this Article 18, a Leasehold Mortgagee shall have an additional period of ninety (90) days to remedy or cause to be remedied any Event of Default of which it shall receive notice other than an Event of Default described in paragraph A. (iv) of Article 8 for which an additional 10 days to remedy may be provided by Landlord.

(d) Limitation Upon Termination Rights of Landlord. If Landlord shall elect to terminate this Sublease upon the occurrence of an Event of Default, the Leasehold Mortgagee shall also have the right to postpone and extend the date of termination as fixed by the provisions of this Sublease for a period of not more than six (6) months from the expiration of the ninety (90) day period specified in subsection (c) hereof, provided that the Leasehold Mortgagee shall cure the Event of Default under this Sublease during such period, and provided further, that the Leasehold Mortgagee of this Sublease shall forthwith take steps necessary to acquire Tenant’s interest and estate in this Sublease by foreclosure of its Leasehold Mortgage, or otherwise, and shall prosecute such action to completion with due diligence. If at the end of the six (6) month period, the Leasehold Mortgagee of this Sublease shall be actively engaged in steps to acquire or sell Tenant’s interest in this Sublease, the time for Leasehold Mortgagee to comply with the provisions of this subsection (d) shall be extended for such period as shall be reasonably necessary to complete these steps with reasonable diligence and continuity.

(e) Assignment. Landlord agrees that in the event of any foreclosure under any Leasehold Mortgage, either by judicial proceedings or under power of sale contained therein all right, title and interest encumbered by such Leasehold Mortgage may, without the consent of Landlord, be assigned to and vested in the purchaser at such foreclosure sale subject and subordinate, however, to the rights, title and interests of Landlord; and, notwithstanding that Landlord’s consent to said assignment shall not have been obtained, any such assignee shall be vested by virtue of such assignment with any and all rights of the party whose estate was encumbered by such Leasehold Mortgage as though Landlord had consented thereto.

(f) Mortgagee Leases. Landlord agrees that in the event of a termination of this Sublease by reason of any Event of Default, and subject to the rights herein granted to Leasehold Mortgagees, the Leasehold Mortgagee shall have the option, but not the obligation, to enter into a sublease agreement directly with Landlord (a “Mortgagee Lease”); provided:

(i) the Leasehold Mortgagee shall enter into a Mortgagee Lease within the six (6) month period specified in subsection (d) of this Section.
(ii) the Leasehold Mortgagee shall perform and observe all covenants contained in the Mortgagee Lease on Tenant’s part to be performed during such period of time commencing with the date of the execution of the Mortgagee Lease and terminating upon the abandonment or surrender of possession of the Premises under the said Mortgagee Lease.

(iii) the Leasehold Mortgagee, as lessee under the Mortgagee Lease shall have the same right, title and interest in and to the Premises and the right to use the Student Housing Project as Tenant had under this Sublease.

(g) Agreement Between Landlord and Leasehold Mortgagee. Landlord, upon request, shall execute, acknowledge, and deliver to each Leasehold Mortgagee an agreement, in form reasonably satisfactory to the Leasehold Mortgagee and Landlord, by and among Landlord, Tenant, and the Leasehold Mortgagee (provided the same has been previously executed by Tenant and Leasehold Mortgagee) agreeing to all of the provisions of this Section 18.

(h) Limitation on Liability of Leasehold Mortgagee. Notwithstanding any other provision of this Sublease, Landlord agrees that any Leasehold Mortgagee permitted under this Sublease shall in no manner or respect whatsoever be (i) liable or responsible for any of Tenant’s obligations or covenants under this Sublease (nor shall any rights of such Leasehold Mortgagee be contingent on the satisfaction of such obligations or covenants), or (ii) required to cure any Event of Default, provided; however, that if such Leasehold Mortgagee becomes the owner of the leasehold estate created hereunder or becomes the lessee under a Mortgagee Lease, then such Leasehold Mortgagee shall be responsible and liable for all obligations and covenants accruing during such Leasehold Mortgagee’s tenure as owner of such leasehold estate or as lessee under a Mortgagee Lease. Notwithstanding the foregoing, the liability of a Leasehold Mortgagee with respect to its obligations under this Sublease or any Mortgagee Lease shall be “non-recourse” and, accordingly, Landlord’s source of satisfaction of such obligations shall be limited to the Net Available Cash Flow and Landlord shall not seek to obtain payment through any judicial process or otherwise from any person or entity comprising such Leasehold Mortgagee or from any assets of such Leasehold Mortgagee other than the Net Available Cash Flow.

ARTICLE 19
WAIVER

No waiver of any condition or legal right shall be implied by the failure of Landlord or Tenant to take action or for any other reason and no waiver of any condition or covenant shall be valid unless it be in writing signed by the party against whom the waiver is asserted. The mention in this Sublease of any specific right or remedy shall not preclude Landlord or Tenant from exercising any other right or from having any other remedy or from maintaining any action to which it may be otherwise entitled either at law or in equity except to the extent such right or remedy is waived herein; and for the purpose of any suit by Landlord brought or based on this Sublease, this Sublease shall be construed to be a divisible contract, to the end that
successive actions may be maintained as successive periodic sums shall mature under this Sublease and it is further agreed that failure to include in any suit or action any sums or sums then matured shall not be a bar to the maintenance of any suit or action for the recovering of said sum or sums so omitted.

**ARTICLE 20**

**WAIVER OF LIABILITY/INDEMNIFICATION**

A. **Limitation of Liability.** Notwithstanding anything herein to the contrary, Landlord shall not be liable for any claims for damage to property or injuries to persons in, on or about BBC or elsewhere occurring during the Term. This limitation on liability shall apply without limitation to claims by Tenant, its representatives, contractors, employees, agents, invitees, licensees, customers, guests, or related entities. Furthermore, in no event shall Landlord have any liability to Tenant on account of any consequential, incidental, special, punitive, exemplary or any other indirect damages, whether in contract, tort (including without limitation negligence and strict liability) or under any other legal or equitable principles whatsoever, or for any loss of profits or revenue. Tenant further acknowledges that nothing contained in this Sublease shall be construed as waiving or in any way modifying any statutory or sovereign immunity to which Landlord is entitled.

B. **Limitation of Liability of Tenant.** Notwithstanding anything herein to the contrary, the liability of Tenant hereunder (including, but not limited to its indemnity obligations) shall be “non-recourse” and, accordingly, Landlord’s sole source of satisfaction of such obligations shall be limited to the Tenant’s interest in the Premises and the rents, issues and surplus related thereto, and Landlord shall not seek to obtain payment from any person or entity comprising Tenant or from any assets of Tenant other than those described herein, notwithstanding the survival of any obligation of Tenant beyond the term hereof.

C. **Indemnification by Tenant.** Tenant agrees that from and after the Effective Date: Tenant shall indemnify, defend (with counsel reasonably acceptable to the Indemnified Parties) and hold harmless Landlord, Master Landlord, and the Florida Board of Governors, and their respective employees, trustees, and governors (collectively, the “Indemnified Parties”) from suits, actions, damages, liability and expense, including, but not limited to, attorney fees and court costs, which may be asserted against, imposed upon or incurred by the Indemnified Parties (i) to the extent arising from or out of any occurrence at, in, or from the Premises or any part thereof during the Term by reason of the construction, occupancy, or use of the Premises, (ii) by reason of Tenant’s breach under any provision hereof during the Term, or (iii) by reason of any act or omission by Tenant, its employees, representatives, agents, contractors, partners, employees, servants, licensees, or invitees during the Term, except to the extent resulting from the gross negligence or willful misconduct or violation of Applicable Law of any Indemnified Party.

D. **Miscellaneous Provisions.** Tenant shall store its Personalty in the Premises and Tenant shall occupy and use the Premises at its own risk. Landlord, Master Landlord and the Florida Board of Governors shall not be responsible or liable at any time and Tenant expressly
releases them from any loss or damage to Tenant’s Personalty. Tenant shall give prompt notice to Landlord in case of fire or accidents on the Premises or in the Student Housing Project causing material damage thereto.

E. Violation of Requirements. Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord) and hold Landlord harmless from and against any and all loss, cost, damage or claim arising during the Term out the failure of any portion of the Student Housing Project or Premises to comply with all requirements (including, but not limited to, applicable terms of the Americans With Disabilities Act of 1990 (the “ADA”), as modified and supplemented from time to time) which shall impose any violation, order or duty upon Landlord or Tenant arising from, or in connection with, the Student Housing Project, the Property, Tenant’s occupancy, use or manner of use of any portion of the Property or the Student Housing Project (including, without limitation, any occupancy, use or manner of use that constitutes a “place of public accommodation” under the ADA), or any installations in the Property/Premises, Improvements, or required by reason of a breach of any of Tenant’s covenants or agreements under this Sublease, whether or not such requirements shall now be in effect or hereafter enacted or issued. Tenant’s indemnification obligation hereunder shall not extend to the gross negligence or willful misconduct or violation of any Applicable Laws by Landlord or its employees, trustees, and agents.

F. Survival. This Article will survive the termination of, or the expiration of the Term of, this Sublease.

ARTICLE 21
SURRENDER AND HOLDING OVER

Tenant shall deliver up and surrender to Landlord possession of the Premises and the Student Housing Project, and shall execute mutually agreeable documentation of the termination upon the expiration or earlier termination of this Sublease, in the condition required by this Sublease. Should Tenant or any party claiming under Tenant remain in possession of the Premises, or any part thereof, after any termination of this Sublease, no tenancy or interest in the Premises or the Student Housing Project shall result therefrom but such holding over shall be an unlawful detainer and all such parties shall be subject to immediate eviction and removal, and Tenant shall, upon demand, pay to Landlord, as liquidated damages, a sum equal to 200% of the prevailing market rent as determined by Landlord of the Property and the Student Housing Project for any period during which Tenant shall hold the Property after the stipulated term of this Sublease may have expired or terminated.

ARTICLE 22
CONDEMNATION

In case of a Taking, as hereinafter defined, or the commencement during the Term of this Sublease of any proceedings or negotiations which might result in a Taking, Landlord and
Tenant shall give notice thereof to the other. Landlord and Tenant shall have the right to appear in such proceedings and be represented by their respective counsel. Tenant shall be authorized to collect, settle and compromise, in its discretion, the amount of Tenant’s award related to the leasehold estate created by this Sublease and the Student Housing Project. Each of the parties will cooperate in good faith with the other parties in all such proceedings, and to execute any and all documents that may be required in order to facilitate the collection of the maximum award to which each party shall be entitled thereunder. Notwithstanding anything to the contrary set forth in this Article, Landlord shall be prohibited from exercising any power of condemnation it may now or hereafter have and condemning the Property, the leasehold estate created by this Sublease (the “Sublease Estate”) or the Student Housing Project thereon, and from exercising undue influence on the condemning authority against the Property, the Sublease Estate and any improvements thereon. “Taking” shall mean any condemnation, requisition or other taking or sale of the use or occupancy of or title to the Property, the Sublease Estate and/or the Student Housing Project in, by or on account of any actual or threatened eminent domain proceeding or other action by any governmental authority or other person or entity under the power of eminent domain or otherwise; provided however that Landlord shall be prohibited from exercising any such Taking. A Taking shall be deemed to have occurred on the earliest to occur of the dates that use, occupancy or title is taken.

If at any time during the Term of this Sublease there shall be a Taking of the whole or substantially all of the Property and/or the Student Housing Project by any governmental entity other than Landlord, then, this Sublease shall terminate and expire on the date title is transferred to such Taking entity. No Rent shall be apportioned in connection with such Taking. For the purpose of this section “substantially all of the Property/Premises and/or the Student Housing Project” shall be deemed to have been taken if the remaining part of the Property/Premises and/or the Student Housing Project not so taken cannot be adequately restored, repaired or reconstructed, in the reasonable opinion of Tenant, so as to constitute a complete, architecturally sound facility of substantially the same usefulness, design and construction as the Student Housing Project prior to the Taking. If this Sublease shall have terminated as a result of such Taking, then Tenant shall at Tenant’s election in Tenant’s sole discretion either restore the Student Housing Project on the Property to complete, architecturally sound buildings, or demolish/remove any remaining improvements on the Property, provided Landlord shall have the right, at its option, to receive ownership of the remaining Improvements in their as-is, where-is condition, with all faults (and without representation or warranty, express or implied).

If this Sublease shall have terminated as result of such Taking by any governmental entity other than Landlord, then as between Landlord and Tenant, the parties agree that each shall be entitled to its fair and equitable share of any award or awards which such awards shall be allocated as follows: (a) to Tenant in an amount equal to the fair market value of the Sublease Estate and the physical facilities of the Student Housing Project apportioned to the remaining Term and any Personalty of Tenant so taken; and (b) to Landlord in an amount necessary to compensate it for the fair market value of the Property (subject to, and burdened by, this Sublease for the entire Term and any Renewal Term (it being agreed that such Renewal Terms
shall be assumed to have been exercised by Tenant) and excluding Improvements apportioned to the remaining Term. The Sublease Estate and the Student Housing Project award shall be deemed to be that part of the award which shall be specifically attributable by the condemnation court (or condemnation commissioner or other body authorized to make the award) to the Sublease Estate and the Student Housing Project on the Property. If any such awards are made without explicit allocation of an amount representing Tenant’s interest under this Sublease and/or the Student Housing Project and Personalty, Landlord and Tenant shall use good faith efforts to agree thereupon. If this Sublease shall continue after any such Taking, this Sublease shall remain unaffected except that this Sublease shall terminate as to the part of the Premises so taken (unless such Taking is a temporary taking, in which case this Sublease shall terminate with respect to the portion of the Premises Taken only so long as it remains taken) and except that Tenant shall, promptly after such Taking and at its expense, restore such Improvements to a complete architectural unit to the reasonable satisfaction of Landlord. The portion of the Premises remaining shall thereafter be referred to as the “Premises.”

ARTICLE 23
EXCEPTIONS TO DEMISE

A. Pre-existing Recordings. Notwithstanding anything to the contrary herein contained with respect to the University Standards, this Sublease is subject to all University Standards, the Master Lease and the easements and the Permitted Exceptions, and documents that are imposed from time to time after the Effective Date as long as such future matters do not materially impair Tenant’s rights under this Sublease. As provided in the Master Lease, Master Landlord does not warrant or guarantee title, right or interest in BBC and as a result thereof, Landlord under this Sublease does not warrant or guaranty title, right or interest in the Property to Tenant; provided however that Landlord does warrant and guaranty title, right and interest in and to the leasehold estate created by this Sublease in favor of Tenant; provided that the Board of Trustees approves this Sublease. Tenant acknowledges that it has performed whatever due diligence it deems advisable into the ownership, title, and condition of the Property and will obtain, at its discretion, a title insurance policy or other protection concerning Tenant’s leasehold interest provided in this Sublease.

B. Subordination. Landlord shall have the right to cause this Sublease (and any renewals, amendments, replacements, modifications and extensions thereof) to be and become and remain subject and subordinate to any and all ground or underlying leases, mortgages or deeds of trust (or any renewals, modifications, consolidations, replacements or extensions thereof) (collectively, “Mortgages”) covering the Property for the full amount of all advances made or to be made thereunder and without regard to the time or character of such advances, together with interest thereon and subject to all the terms and provisions thereof; provided, however, that such lender or other party shall agree in a written subordination agreement, in form and substance reasonably acceptable to such lender, to Landlord and to Tenant, not to disturb Tenant’s right of possession under this Sublease pursuant to the terms of this Sublease, unless an Event of Default has occurred and is continuing. Notwithstanding anything to the contrary herein, Landlord shall not have the right to cause any mortgage, lien or encumbrance
to be placed on or against the Premises, the Student Housing Project, the other Improvements or the Personalty.

ARTICLE 24
SUBLEASE INURES TO BENEFIT OF ASSIGNEES

This Sublease and all the covenants, provisions and conditions herein contained shall inure to the benefit of and be binding upon the heirs, personal representatives, and permitted assigns, if any, of the parties hereto, provided, however, that no assignment by, from, through or under Tenant in violation of this Sublease shall vest in the assigns any right, title or interest whatever. It is expressly understood and agreed that, subject to Section B of the Article entitled “Exceptions to Demise”, this Sublease and all rights of Landlord hereunder shall be fully and freely assignable by Landlord without notice to or the consent of Tenant.

ARTICLE 25
QUIET ENJOYMENT

Subject to the provisions of the Article entitled “Exceptions to Demise”, Landlord hereby covenants and agrees that if Tenant shall perform all the covenants and agreements herein stipulated to be performed on Tenant’s part, subject to the notice and cure rights in favor of Tenant set forth in this Sublease, Tenant shall at all times during the continuance hereof have the peaceable and quiet enjoyment and possession of the Premises without any manner of let or hindrance from Landlord, Master Landlord or any party claiming by or through Landlord or Master Landlord.

ARTICLE 26
NO PARTNERSHIP

By entering into this Sublease, Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business, or otherwise, or a joint venturer or a member of a joint enterprise with Tenant, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship other than Landlord and Tenant. By entering into this Sublease, Tenant does not, in any way or for any purpose, become a partner of Landlord in the conduct of its business, or otherwise, or a joint venturer or a member of a joint enterprise with Landlord, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship other than Landlord and Tenant.

ARTICLE 27
NOTICES

All notices, requests, consents, waivers and approvals, under this Sublease shall be effective only if given or made in writing addressed to a party to the attention of the offices or individual(s) and at the address or to the facsimile number specified for that party in this clause.
and to such additional or other addressees, addresses, and/or facsimile numbers, as any party
may designate by notice to the other party in accordance with this clause, and shall be effective
at the times, and only if given by the means, specified below:

i. By nationally recognized overnight delivery service or by government certified
or registered mail return receipt requested, effective upon delivery or refusal of delivery by or
on behalf of the intended recipient, as evidenced by the delivery receipt;

ii. By hand delivery using a commercial courier service, effective upon delivery or
refusal of delivery by or on behalf of the intended recipient, as evidenced by the delivery
receipt, or by other hand delivery effective upon delivery or refusal of delivery by or on behalf
of the intended recipient according to all relevant evidence; or

The addressees, addresses and facsimile numbers for notice shall be:

If to Landlord: FLORIDA INTERNATIONAL UNIVERSITY
Office of Finance and Administration
11200 SW 8th Street
Miami, FL 33199
Attn: Chief Financial Officer

AND TO:

With copy to: FLORIDA INTERNATIONAL UNIVERSITY
Office of the General Counsel
11200 SW 8th Street
Miami, FL 33199
Attn: General Counsel

If to Tenant: NCCD – Biscayne Properties LLC
c/o National Campus and Community
Development Corporation
98 San Jacinto Boulevard, Suite 2020
Austin, TX 78701
Attn: President

ARTICLE 28
LANDLORD’S AND TENANT’S MARKS

A. Landlord’s Marks. Tenant shall not use the name of Landlord or any of its
symbols, logos, trademarks or other representations of those of its affiliated organizations
(“Landlord’s Marks”) without the express written consent of Landlord and the applicable
affiliated organization(s). Tenant shall not, during the Term of this Sublease, change the name
of the Housing Facility if such new name would include use of any Landlord’s Marks, without
the express written consent of Landlord, which consent may be granted or withheld in
Landlord’s sole and absolute discretion. Upon the expiration of, or earlier termination of, this Sublease, Landlord may require that the name of the Student Housing Project be changed to remove Landlord’s Marks.

B. Tenant’s Mark’s. Landlord shall not use the name of Tenant or any of its symbols, logos, trademarks or other representations of those of its affiliated organizations (“Tenant’s Marks”) without the express written consent of Tenant and the applicable affiliated organization(s). Landlord shall not, during the Term, change the name of the Student Housing Project if such new name would include use of any Tenant’s Marks, without the express written consent of Tenant, which consent may be granted or withheld in Tenant’s sole and absolute discretion. Upon the expiration or early termination of this Sublease, Tenant may require that the name of the Student Housing Project be changed to remove Tenant’s Marks.

ARTICLE 29
INTEREST

All sums payable by Tenant to Landlord under this Sublease, if not paid when due, shall accrue interest at the lesser of: (i) the sum of the prime rate (published by the Wall Street Journal or similar publication) plus seven percent (7%) (700 basis points) per annum, and (ii) the highest rate allowed under the laws of the State of Florida (the “Default Rate”), from their due date until paid, said interest to be Additional Rent under this Sublease and shall be paid to Landlord by Tenant upon written demand.

ARTICLE 30
WAIVER OF JURY TRIAL

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS SUBLEASE, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN), OR ACTION BETWEEN OR AMONG THE PARTIES OR ANY EXERCISE BY ANY PARTY OF ITS RESPECTIVE RIGHTS UNDER THIS AGREEMENT OR IN ANY WAY RELATING TO THE STUDENT HOUSING PROJECT. THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT. THIS WAIVER SURVIVES THE EXPIRATION OR TERMINATION OF THIS SUBLEASE.

ARTICLE 31
NOT CONSENT TO SUIT; GOVERNING LAW

A. Consent to Enforce Sublease. The provisions, terms or conditions of this Sublease shall not be construed as a consent of the State of Florida to be sued and no such consent is granted except as provided by Florida Statutes or case law; provided however that Landlord expressly consents to Tenant enforcing the obligations of Landlord under this
Sublease pursuant to (i) an action for specific performance, (ii) an action for injunctive relief, (iii) an action for mandamus, and/or (iv) an action for declaratory judgment.

B. **Governing Law; Venue.** This Sublease shall be governed by Florida law without regard to its choice of law provisions. Venue for any litigation arising hereunder shall lie in the appropriate court located in Miami-Dade County, Florida.

**ARTICLE 32**

**FORCE MAJEURE**

In the event that Landlord or Tenant is delayed or prevented from performing any of their respective obligations during the Term by reason of, or related to or arising out of: acts of God, fire, flood, tornado, hurricane, or similar unforeseeable, extreme weather or accident, shortages, casualty, strikes, lockouts or other labor disputes, inability to procure equipment or labor, or inability to obtain utilities necessary for performance, governmental restrictions or orders, national emergencies, enemy or hostile governmental action, terrorism, insurrection, embargoes and quarantines, reasons of a like nature not the fault of the party delayed in the performance of such obligation (collectively, “Force Majeure”), then, the period of such delays shall be deemed added to the time herein provided for the performance of any such obligation and the defaulting party shall not be liable for losses or damages caused by such delays; provided, however, that this Article shall not apply to the payment of any sums of money required to be paid by Tenant hereunder or any obligation of Landlord or Tenant that can be satisfied by the payment of money. Landlord and Tenant acknowledge that normal and customary rain shall not constitute Force Majeure.

**ARTICLE 33**

**TRUSTEE CONSENT**

This Sublease is subject to and conditioned upon the initial written consent of Master Landlord. Neither party shall be bound hereto unless and until the Master Landlord has given its written consent to this Sublease.

**ARTICLE 34**

**ENVIRONMENTAL MATTERS**

A. **ESA.** Landlord and Tenant hereby acknowledge that Tenant has performed all environmental due diligence desired by Tenant with respect to the Property and surrounding areas. Any contamination by Hazardous Substance or Materials located in, on or under the Property or any violations of Applicable Laws arising or occurring after the Effective Date shall not be the responsibility of Landlord.

B. **Definitions.** For purposes hereof, the following definitions shall apply: (i) “Environmental Law” means and includes the Comprehensive Environmental Response Compensation and Liability Act (“CERCLA” or the Federal Superfund Act) as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”) 42 U.S.C., Sections 9601-9675; the Federal Resource Conservation and Recovery Act of 1876 (“RCRA”); the Clean Water
Act, 33 U.S.C., Section 1321, et seq.; the Clean Air Act, 42 U.S.C., Section 7401, et seq., all as the same may be from time to time amended and any other federal, state, county, municipal, local or other statute, law, ordinance or regulation which may relate to or deal with human health or the environment, including, without limitation, all regulations promulgated by a regulatory body pursuant to any such statute, law or ordinance; and (ii) “Hazardous Substance or Materials” means asbestos, urea formaldehyde, polychlorinated biphenyls, 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 Applicable Law.

C. Environmental Compliance Requirements. Tenant agrees that the Premises will remain free from contamination by Hazardous Substance or Materials in excess of amounts permitted by Environmental Laws and that the Property and the activities conducted or to be conducted thereon do not and will not violate any Environmental Laws. Tenant shall not cause or permit the Premises to be used for the generation, handling, storage, transportation, disposal or release of any Hazardous Substance or Materials except as specifically exempted or permitted at all times under applicable Environmental Laws. Tenant shall not cause or permit the Premises or any activities conducted thereon to be in violation of any current or future applicable Environmental Laws. Tenant will promptly notify Landlord of any violation of any Environmental Laws relating to the use of the Premises or the Student Housing Project or the release or suspected release of Hazardous Substance or Materials in, under or about the Property/Premises in violation of Environmental Laws, and Tenant shall promptly deliver to Landlord a copy of any notices, filings or permits sent or received by Tenant or on behalf of Tenant with respect to the foregoing. Tenant shall have the right to direct decisions regarding remediation activities affecting the Premises which are the responsibility of Tenant under this Sublease all of which shall be performed at Tenant’s cost, but Landlord shall have reasonable input into decisions regarding remediation activities. Notwithstanding the foregoing, in no event shall Tenant be entitled to agree to any lesser clean-up standard than is required by Applicable Law (without reliance on any risk based corrective action measures) or to any limitation on use that would bind the Premises following the expiration of the Term without Landlord’s consent, which may be withheld in Landlord’s sole and absolute discretion. In the event Landlord suffers any claims or loss pursuant to this Sublease, Tenant shall immediately reimburse Landlord hereunder, any such amounts shall constitute Additional Rent due from Tenant to Landlord, and will be due and payable in full within thirty (30) days following receipt of written notice. Tenant’s liability under this provision for matters existing on or prior to the expiration or termination of this Sublease shall survive the expiration or any termination of this Sublease.

ARTICLE 35
RADON GAS

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over
time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

**ARTICLE 36**
**BROKERS**

Tenant and Landlord each represents and warrants to the other that no real estate broker, agent, commission salesman, or other person has represented the warranting party in the negotiations for and procurement of this Sublease and of the Property (collectively, a “Broker”), and that no commissions, fees or compensation of any kind are due and payable in connection herewith to any Broker. Each of Tenant and Landlord hereby agree to indemnify and hold harmless the other party for any claims made for the payment of any commissions, fees or other compensation of any kind whatsoever which may be due and payable with respect to the negotiation and/or procurement of this Sublease and of the Property by any Broker claiming by, through or under, the indemnifying party.

**ARTICLE 37**
**LANDLORD’S APPROVALS**

If Tenant requests Landlord’s consent or approval under this Sublease or requests that Landlord provide an estoppel certificate, and Landlord deems it necessary or desirable to seek the advice of its attorneys, architects and/or other experts, then Tenant shall pay the reasonable fees of such persons and firms in connection with the consideration of such request and/or the preparation of any documents pertaining thereto. With respect to Landlord’s review and approval of building code and plans and specifications and any required inspections of the Student Housing Project (including, state fire marshal inspections), Tenant shall reimburse Landlord for the actual, out-of-pocket costs incurred by Landlord from a third party vendor retained by Landlord for such review and approval, together with an additional three percent (3%) administrative fee of such costs (excluding any overhead and salary costs and expenses of Landlord with respect thereto). Landlord’s consent or approval shall only be valid if in writing and Landlord shall not unreasonably withhold or delay the granting of such consent or approval, unless expressly indicated to the contrary in this Sublease with respect to a particular consent or approval. In any request for consent or approval, Tenant shall endeavor to indicate the time period for review, recognizing that Landlord’s internal processes and procedures may require a longer review and approval time than that of private parties. Unless otherwise expressly provided under this Sublease, no failure by Landlord to respond within a time period for review shall be deemed approval of, or consent to, a request.

**ARTICLE 38**
**MEMORANDUM OF SUBLEASE**

Landlord and Tenant agree to execute and deliver a memorandum or short form lease (hereinafter “Memorandum of Sublease”) in a form sufficient to put all contractors, materialmen, and suppliers on notice that neither the underlying fee, interest, nor Landlord’s
interest in the Property will be subject to construction liens as set forth in Chapter 713, Florida Statutes. The Memorandum of Sublease shall otherwise be substantially similar to the form attached hereto and incorporated herein as Exhibit G, and it shall be recorded in the Official Records of Miami-Dade County, Florida. No copy of this Sublease shall be filed of record. Tenant shall pay all costs charged by the state and county to record the Memorandum of Sublease. Tenant agrees that upon the expiration or earlier termination of this Sublease and within ten (10) days of Landlord’s written request, Tenant shall remove, at Tenant’s sole cost and expense, the Memorandum of Sublease from the public records by executing a termination of the Memorandum of Sublease.

ARTICLE 39

OFAC

Without limiting the general requirements under this Sublease for the parties to comply with Applicable Laws, to the extent applicable to each party and/or its operations, each party shall comply with all (i) regulations promulgated by the Office of Foreign Assets Control, Department of the Treasury which are applicable to Tenant or any occupant of the Property, (ii) the International Emergency Economic Powers Act, 50 U.S.C. Section 1701 et seq., (iii) the Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and (iv) the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism.

ARTICLE 40

RIGHTS OF WAY AND LICENSES

Tenant shall deliver written requests to Landlord and provide sufficient advance notice of any utility rights of way and licenses required in connection with the construction, operation and use of the Student Housing Project. All such utility rights of way and licenses shall be non-exclusive. Landlord, at Tenant’s sole cost and expense, shall coordinate with Master Landlord and provide documents in forms acceptable to Landlord. Each such right of way or license shall (a) not materially impair the value, utility and remaining useful life of BBC, any portion thereof, any improvements thereon, the Property/Premises or the Student Housing Project, (b) be reasonably necessary in connection with the construction, operation or use of the Student Housing Project, (c) not cause any part of BBC, the Property, or the Student Housing Project to fail to comply with all material requirements of Applicable Laws, and (d) be permitted by and subject to all recorded easements and other restrictions, encumbrances and agreements affecting the Property in effect as of the Effective Date. No such right of way or license shall extend beyond the Term (and any Renewal Term) of this Sublease.

ARTICLE 41

TENANT’S REPRESENTATIONS AND WARRANTIES

Tenant represents and warrants to and agrees with Landlord that, as of the Effective Date:
A. **No Conflict.** The execution and delivery of this Sublease, the performance of covenants, conditions and obligations herein contemplated and compliance with the terms of this Sublease will not conflict with, or, with or without notice or the passage of time or both, result in a breach of any of the terms or provisions of, or constitute a default under, any indenture, deed of trust, mortgage, loan agreement, or other document, or instrument or agreement, oral or written, to which Tenant is a party or by which Tenant is bound, or any applicable regulation of any governmental agency, or any judgment, order or decree of any court having jurisdiction over Tenant.

B. **Due Formation.** Tenant is a limited liability company duly formed under the laws of the State of Tennessee, authorized to do business in Florida, and existing in good standing under the laws of the State of Florida, with its principal place of business in the State of Tennessee. All requisite corporate action has been taken by Tenant in connection with entering into this Sublease. No consent of any partner, director, shareholder, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party is required in connection herewith which has not been obtained.

C. **Authority.** Tenant has full right, power and authority to enter into this Sublease and to carry out its obligations hereunder. The individual(s) executing this Sublease and the instruments referenced herein on behalf of Tenant have the legal power, right and actual authority to bind Tenant to the terms hereof and thereof. This Sublease is and all other documents and instruments to be executed and delivered by Tenant in connection with this Sublease shall be duly authorized, executed and delivered by Tenant and shall be valid, binding and enforceable obligations of Tenant.

D. **Rules and Regulations.** Except as otherwise specifically provided for in this Sublease, Tenant agrees for itself and for its employees, contractors, agents, invitees, licensees, guests and/or any other representatives (collectively referred to in this Article as “Tenant’s Related Parties”) to comply, and Tenant shall use reasonable efforts to cause Tenant’s Related Parties to comply, with all regulations, policies, procedures, and guidelines, as may be now or hereinafter amended, which are applicable to BBC generally and Tenant’s use and operations thereunder, on a non-discriminatory and reasonable manner and which include but are not limited to, those implemented by the Florida International University Board of Trustees, The State of Florida Board of Governors, The State of Florida, and/or The State of Florida Board of Education.

E. **Existing Exclusive Agreements of Landlord.** Tenant shall not enter into any contracts or arrangements which would place Landlord in violation of the Master Lease.
ARTICLE 42
MISCELLANEOUS

A. Effective Date. As used herein, the term “Effective Date” shall mean the date on which the last one of Master Landlord, Landlord and Tenant has executed this Sublease and delivered a copy of the fully-executed Sublease to Tenant via email.

B. Counterparts. This Sublease may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

C. Business Day. For purposes of this Sublease, “Business Day” shall mean all days, excluding Saturdays, Sundays, and all days observed as legal holidays by the Federal Government and the State of Florida.

D. Waiver of Landlord’s Lien. Landlord hereby expressly waives and releases any and all contractual liens and security interests or constitutional and/or statutory liens and security interests arising by operation of law to which Landlord might now or hereafter be entitled on the Personalty or any other property of Tenant which Tenant now or hereafter places in or upon the Property (except for judgment liens that may arise in favor of Landlord). The waiver and release contained herein shall not waive, release or otherwise affect any unsecured claim Landlord may have against Tenant.

E. Interpretation. Wherever either the word “Landlord” or “Tenant” is used in this Sublease, it shall be considered as meaning the parties respectively, wherever the context permits or requires, and when the singular and/or neuter pronouns are used herein, the same shall be construed as including all legal entities designated respectively as Landlord or Tenant in the heading of this instrument wherever the context requires. Time is of the essence with regard to the obligations of both parties herein.

F. Paragraph Headings. The paragraph headings are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent neither of this Sublease nor in any way affect this Sublease.

G. Entire Agreement. This Sublease and all Exhibits attached hereto constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings of the Parties in connection therewith.

H. Amendment to this Sublease. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Sublease shall be binding upon Landlord or Tenant unless reduced to writing and signed by the parties. Each party to this Sublease agrees that the other party and its agents have made no representations or promises with respect to this Sublease, the Property or the Student Housing Project except as expressly set forth in this Sublease.
I. **Recitals.** Each of the Recitals to this Sublease is true and correct in all respects and is hereby incorporated into this Sublease for all purposes.

J. **No Option.** The submission of this Sublease for examination does not constitute a reservation of or option for the Property, and shall vest no right in any party. This Sublease becomes effective only upon execution and delivery thereof by Master Landlord, Landlord and Tenant.

K. **No Merger of Title.** There shall be no merger of this Sublease or of the leasehold estate created by this Sublease by reason of the fact that the same person, firm or corporation or other entity may acquire or own or hold directly or indirectly (a) this Sublease or the leasehold estate created by this Sublease or any interest in this Sublease or in any such leasehold estate, and (b) the fee estate in the Property/Premises or any part thereof or any interest in such fee estate and no such merger shall occur unless and until all corporations, firms and other entities having any interest in (i) this Sublease or the leasehold estate created by this Sublease, and (ii) the fee estate in the Property or any part thereof shall join in a written instrument effecting such merger and shall duly record the same.

L. **Severability of Provisions.** The provisions of this Sublease are severable, and if any provision, or any portion thereof, is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, any remaining portions of that provision, and all other provisions of this Agreement, shall remain valid and enforceable to the fullest extent permitted by law and equity in order to give effect to the parties' intentions under this Sublease.

M. **Negation of Partnership.** Nothing contained in this Agreement is intended to create any partnership, joint venture or association between the parties hereto or in any way make the either party a co-principal with the other party with reference to the property or the agreements referenced herein and any inferences to the contrary are hereby expressly negated.

N. **No Third Party Beneficiary.** Except as expressly set forth to the contrary in this Agreement, each of the parties agree that no individual and/or entity is intended to have, nor shall such individual and/or entity be deemed to have, any rights or remedies as a third party beneficiary to, or under, this Agreement or otherwise and each of the parties acknowledge and agree that any benefit conferred to any such individual and/or entity is, and shall be deemed for all purposes to be, merely incidental.

O. **Anti-Bribery Provision.** Each of Landlord and Tenant represents, warrants and agrees with the other party that it: (a) will comply with all anti-corruption laws applicable to its business operations; (b) has not and will not offer, promise, give or authorize the payment of anything of value (e.g. cash or cash equivalents, gifts, travel and entertainment, stock, offers of employment, etc.), directly or indirectly, to any Government Official (hereinafter defined) with the intention of inducing him or her to engage in improper or unlawful conduct or to secure an improper business advantage; (c) has not and will not make facilitation payments or “grease payments” to Government Officials or others in a position of authority to expedite routine non-
discretionary government or lawful actions (e.g. processing permits, visas and licenses, scheduling inspections, clearing customs, etc.); and (d) has not and will not offer, promise, give, request, receive or accept anything of value, directly or indirectly, to or from any person for the purpose of influencing, inducing or rewarding the improper performance of an act or decision. For purposes of this clause, the term “Government Official” means any (a) officer or employee of government, department, agency, or instrumentality of a government (government-controlled enterprise); (b) officer or employee of a public international organization; (c) political party or party official; (d) candidate for political office; or (e) other person acting in an official capacity. Landlord and Tenant agree that failure to comply with this section will constitute a material breach of this Sublease.

P. **Survival:** Tenant’s obligations which by their nature should survive or which this Sublease expressly states will survive will remain in full force and effect following termination or expiration of this Sublease.

Q. **Funding Contingency:** Landlord’s performance and obligations under this Sublease shall be subject to the appropriation of funds sufficient for the purpose. Landlord shall provide Tenant notice of the non-availability of funds for this promptly after Landlord has knowledge thereof.

R. **Sovereign Immunity:** This Agreement does not affect the immunities, exemptions, and limitations of liability of Landlord under Florida Statute 768.28 and other Applicable Laws of the State of Florida. Nothing in this Sublease shall be deemed to affect the rights, privileges and immunities afforded Sub-Landlord, The Florida International University Board of Trustees, the Florida Board of Governors and the State of Florida by law. Nothing herein shall be construed as consent by Landlord to be sued by third parties in any manner arising out of this Sublease.

[Signatures on Following Page]
IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands and seals as of the day and year first above written.

FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES, a public body corporate

By: ____________________________________________
   Kenneth A. Jessell, PhD, as Senior Vice President for Finance and Administration and Chief Financial Officer

WITNESSES:

__________________________________________
SIGNATURE

__________________________________________
PRINTED NAME

__________________________________________
SIGNATURE

__________________________________________
PRINTED NAME

Approved:

By: ______________________________
   Vice President for ______________________________
Florida International University

Approved as to form and legality:

__________________________________________
Kristina Rattaama, Office of the General Counsel
Florida International University
TENANT: NCCD – BISCAYNE PROPERTIES LLC

By: ________________________________
Name: Charles G. Eden
Title: President

ATTEST:

____________________________________
SIGNATURE

____________________________________
PRINTED NAME

____________________________________
SIGNATURE

____________________________________
PRINTED NAME
Consented to by the TRUSTEES on ________, 2014.

__________________________________________

___________, Chief
Bureau of Public Land Administration, Division of State Lands,
Department of Environmental Protection

Approved as to Form and Legality
By: ________________________________
    DEP Attorney
EXHIBITS
[TO BE DETERMINED]
Appendix F - Proposed Operating Agreement
OPERATING AGREEMENT

BETWEEN

THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

AND

NCCD – BISCAYNE PROPERTIES LLC
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OPERATING AGREEMENT

This OPERATING AGREEMENT (this “Agreement”) is made and entered into as of _____ __, 2014, between The FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES (the “University Board”) and NCCD – BISCAYNE PROPERTIES LLC, a single member limited liability company organized and existing under the laws of the State of Tennessee (together with its successors and assigns, the “Owner”). The University Board and the Owner are each referred to herein as a “Party” and together, the “Parties.”

RECITALS:

WHEREAS, the University Board is the lessee of that certain parcel of land, as more particularly described in Exhibit A attached hereto (the “Land”);

WHEREAS, the University Board and the Owner have entered into that certain Sublease Agreement dated June _____, 2014 (the “Ground Sublease”), wherein the University Board has subleased the Land to the Owner and the Owner has agreed to develop, improve, and use the Land in accordance with terms set forth therein;

WHEREAS, the Owner intends to design, permit, finance, construct, operate and maintain certain student housing facilities and associated systems, fixtures, furnishings and equipment to be installed, constructed, operated and maintained by the Owner on the Land, as described more particularly in the Ground Sublease and in Exhibit B attached hereto (the “Series 2014 Project”);

WHEREAS, the Miami-Dade Industrial Development Authority (the “Issuer”) has issued (i) its Miami-Dade Industrial Development Authority Student Housing Revenue Bonds (NCCD - Biscayne Properties LLC – Florida International University Project) Series 2014A in the principal amount of $[Amount of A Bonds] (the “Series 2014A Bonds”) for the purpose, inter alia, of providing funds to finance the cost of acquisition, construction, furnishing, and equipping of the Series 2014 Project and (ii) its Miami-Dade Industrial Development Authority Taxable Student Housing Revenue Bonds (NCCD - Biscayne Properties LLC - Florida International University Project) Series 2014B in the principal amount of $[Amount of B Bonds] (the “Series 2014B Bonds,” and together with the Series 2014A Bonds, the “Series 2014 Bonds”) for the purpose, inter alia, of providing funds to pay certain costs incurred in connection with the issuance of the Series 2014 Bonds;

WHEREAS, the Series 2014 Bonds have been issued under and are secured by a Trust Indenture (as now or hereafter, amended, supplemented, modified, and/or restated, the “Indenture”) dated as of ______ 1, 2014, by and between the Issuer and Regions Bank, as Trustee (the “Trustee”), and the proceeds of the Series 2014 Bonds are being lent to the Owner by the Issuer pursuant to a Loan Agreement (as now or hereafter, amended, supplemented, modified, and/or restated, the “Loan Agreement”) dated as of ______ 1, 2014, by and between the Issuer and the Owner;

WHEREAS, the Issuer has sold the Series 2014 Bonds to Raymond James & Associates, Inc. (the “Underwriter”) pursuant to the terms of a Bond Purchase Agreement (the “Bond Purchase Agreement”) dated ________________, 2014, by and among the Issuer, the Owner, and the Underwriter;

WHEREAS, under the Bond Purchase Agreement, the execution and delivery of this Agreement by the University Board is a condition precedent to the obligation of the Underwriter to buy the Series 2014 Bonds from the Issuer;
WHEREAS, in furtherance of the Ground Sublease, the University Board and the Owner desire to establish certain standards relating to the operation, management, and maintenance of the student housing facility in accordance with the terms and conditions set forth in this Agreement,

NOW THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be bound hereby, the Parties agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. The following capitalized terms have the meanings assigned to them in this Article I:

“Agreement” has the meaning set forth in the first paragraph.

“Annual Period” means the year commencing on July 1 of each year and ending on the following June 30.


“Architect’s Agreement” means that certain [Architect Contract] dated [date] between the Developer and the Architect pursuant to which the Architect has agreed to provide certain design and contract administration services to the Developer related to the Series 2014 Project.

“Architectural Design and Safety Guidelines” means the guidelines maintained by the University Board which set forth standards, criteria, guidelines, and policies for the design and safety of improvements and facilities on the Campus.

“Business Days” are all weekdays except Holidays.

“Campus” means the Biscayne Bay campus of the University located in the City of Miami Shores, Florida, and in Miami-Dade County, Florida.

“Commercially Reasonable Efforts” means diligent and professional efforts consistent with the standards of other first class operators performing similar services for projects similar to the Series 2014 Project. The requirement that the Owner shall use Commercially Reasonable Efforts to complete a task shall in no event be deemed to reduce the Owner’s obligation to complete such task to the extent completion thereof is within the control of the Owner, even if completion will require more time or resources than originally contemplated in the initial estimates, budgets, or projections of required time or resources, but only to the extent that such efforts would be considered reasonable and prudent among first class operators.

“Completion Deadline” means the date of Substantial Completion, as defined in the Grond Sublease, of the Series 2014 Project, as may be extended as provided in the Ground Sublease.

“Consultant” has the meaning set forth in Section 1.01 of the Loan Agreement.

“CPI,” as used herein, means the Consumer Price Index for All Urban Consumers 1967 = 100 for all cities, presently published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor, provided, that if said index shall no longer be published, the substitute index designated by said Bureau, or if none, then an index generally recognized as authoritative shall be substituted by agreement of the Parties.

“Defaulting Party” has the meaning set forth in Section 6.1.

“Development Agreement” has the meaning set forth in the Ground Sublease.
“Developer” means Servitas, LLC, Dallas Texas.

“Effective Date” means the date that is sixty (60) days prior to the Completion Deadline.

“Eligible Residents” means, in order of acceptance priority, (i) students registered in an academic program at the University; (ii) regular full time faculty of the University; (iii) visiting faculty serving at the University on a temporary basis; (iv) regular full-time staff of the University that the University has pre-approved in writing; (v) groups participating in any University sponsored activity, conference, or program that the University Board has pre-approved in writing; and (vi) students registered in an institution of higher learning located in Miami-Dade County with which the University Board either has established an affiliation or other cooperative or coordination agreement or arrangement or has pre-approved in writing.

“Emergency Repairs” has the meaning set forth in Section 4.2(b).

“Event of Default” has the meaning set forth in Section 6.1.

“FIUPD” means the Florida International University Police Department.

“Fixed Charges Coverage Ratio” has the meaning set forth in Section 1.01 of the Loan Agreement.

“General Contractor” means Kaufman Lynn, LLC, Boca Raton, Florida.

“General Construction Contract” means that certain [Construction Contract] dated [date] between the Developer and the General Contractor pursuant to which Construction Contractor will install and construct the Series 2014 Project on a guaranteed maximum price, turnkey basis.

“Ground Sublease” has the meaning set forth in the Recitals.

“Holidays” means New Year’s Day, Easter, Memorial Day, Independence Day, Labor Day, Veterans’ Day, Thanksgiving, and the day after Thanksgiving, and Christmas and any other days recognized as holidays by the University Board.

“Indenture” has the meaning set forth in the Recitals.

“Issuer” has the meaning set forth in the Recitals.

“Land” has the meaning set forth in the Recitals.

“Laws” means all laws, statutes, regulations, codes, ordinances, orders, permits, and requirements of any federal, state, or local governmental authority having jurisdiction over a Party or the Series 2014 Project as well as the orders of the fire marshal, board of fire underwriters, and similar bodies affecting the Series 2014 Project or the management, leasing, use, occupancy, construction, maintenance, repair, or reconstruction thereof.

“Loan Agreement” has the meaning set forth in the Recitals.

“Manager” means Servitas Management Group, LLC or such other property management company or other Person contracted by the Owner to operate and maintain the Series 2014 Project in accordance with the terms of this Agreement and the Ground Sublease.

“Non-Defaulting Party” has the meaning set forth in Section 6.1(a).

“Owner” has the meaning set forth in the first paragraph.

“Parking Areas” means the areas described as such in Exhibit C attached hereto.

“Party” or “Parties” have the respective meaning set forth in the Recitals.

“Performance Standard” has the meaning set forth in Article II.
“Purc hase Option” means the option of University to purchase the Series 2014 Project as set forth in the Ground Sublease.

“RAs” has the meaning set forth in Section 4.12.

“Repair and Replacement Fund” shall have the meaning set forth in Section 4.1(e).

“Residence Life Program” means the University’s residence life program.

“Rules” has the meaning set forth in Section 4.7.

“Series 2014 Project” has the meaning set forth in the Recitals.

“Term” has the meaning set forth in Article III.

“Underwriter” has the meaning set forth in the Recitals.

“University” means Florida International University.

“University Board” meant the Board of Trustees of the Florida International University and its successors and assigns.

“University Board Representative” means the Vice President of Student Affairs, or such officer’s designee.

“University Designated Spaces” means an area or areas of approximately ______ aggregate square feet within the Series 2014 Project that is to be occupied by the University Board for the sale of goods or services by the University Board or the University Board’s third party contractors and vendors or otherwise used by the University Board for any lawful purpose.

“Utility Service” means electricity, water, wastewater, reuse water, and other such products or services necessary for the operation and maintenance of the Series 2014 project, which shall be paid for by the Owner.

**Section 1.2 Interpretation.** The headings of Articles and Sections in this Agreement are provided for convenience of reference only and will not affect the construction, meaning or interpretation of this Agreement. All references to “Articles,” “Sections,” or “Exhibits” refer to the corresponding Articles, Sections, or Exhibits of or to this Agreement. All words used in this Agreement shall be construed to be of such gender or number as the circumstances require. The words “include,” “includes,” and “including” shall be interpreted to mean “including without limitation.” Any reference to a Person includes its permitted successors and assigns. A reference to a document, Law, code, contract, or agreement, including this Agreement, or the University Board’s rules, regulations, standards, and policies is a reference to that document, code, contract, or agreement as amended, modified, supplemented, or restated from time to time in accordance with its terms. If any payment or act hereunder would occur on a day that is not a Business Day, then such payment or act shall occur on the next succeeding Business Day unless it involves an emergency. The words “hereof,” “herein,” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement.

**ARTICLE II PERFORMANCE STANDARD**

The Owner agrees to cause the Series 2014 Project to be designed, permitted, financed, acquired, installed, constructed, furnished, and equipped to serve as residential housing for students at the University and other Eligible Residents consistent with the plans and specifications identified in the Development Agreement and the Ground Sublease. The University Board and the Owner agree that the Series 2014 Project shall be occupied only by Eligible Residents. The Owner shall manage, operate, and
perform its obligations, covenants, duties, and agreements in accordance with the following: (a) the terms of this Agreement; (b) all applicable Laws; (c) the standards and practices of first class operators that operate and manage student housing facilities similar to the Series 2014 Project on behalf of institutional lessors; (d) applicable rules, regulations, standards, and policies of the University Board, including its Residence Life Program, and (e) the terms and conditions of applicable policies of insurance and surety bonds (the “Performance Standard”).

ARTICLE III
TERM

This Agreement commences on the Effective Date and is coterminous with the Ground Sublease unless earlier terminated as provided herein (the “Term”). The initial Term may only be amended, extended, or renewed by an amendment to this Agreement made in accordance with the terms hereof except as otherwise expressly set forth herein.

ARTICLE IV
OWNER’S AND UNIVERSITY BOARD’S DUTIES AND PROJECT SERVICES

Section 4.1 Owner’s General Duties.

(a) The Owner shall have full responsibility for leasing or licensing the Series 2014 Project residential units. The Owner shall enter into a lease, residence, or license agreement with each Eligible Resident occupying a unit in the Series 2014 Project. The form and substance of the agreement shall be approved by the University Board Representative.

(b) The Owner shall be responsible for the management, operation, maintenance, and repair of the Series 2014 Project as a student housing facility at its sole cost and expense. The hiring of a Manager or contractors or vendors by the Owner shall not affect the duties and obligations of the Owner hereunder. The Owner shall require any Manager, contractor, or vendor to adhere strictly to all policies, procedures, and regulations of the University Board while on the Series 2014 Project site, including parking, smoking, security, and drug and alcohol policies. The Owner shall be responsible for the all acts and omission of any Manager, contractor, or vendor.

(c) The Owner shall perform its duties, obligations and activities in accordance with the Performance Standard. The Owner’s duties include the duties and obligations specifically designated as the Owner’s duties or obligations below in this Article IV. The Owner shall furnish all equipment, tools, supplies, material, personnel, and resources necessary or useful to perform its duties and obligations hereunder.

(d) Within thirty (30) days after the end of each calendar month, the Owner shall provide the University Board unaudited, accrual basis financial reports, including a statement of cash flows, for the Series 2014 Project for such month. Such monthly financial reports shall include a balance sheet, the income and expenditures for the month, as compared to the approved annual budget for the month and as compared to the same month in the prior annual period, and the income and expenditures for the current annual period to date, all in sufficient detail to indicate the financial condition of the Series 2014 Project and a statement of cash flows.

(e) The Owner shall include in the annual operating plan and budget for the Series 2014 Project the funding of a reserve for costs of repair and replacement of the Series 2014 Project and its major systems, equipment, components and facilities, which reserve, funded in the initial amount of $185.00 (CPI indexed) per bed per year, shall be in addition to any debt reserve fund or other account required by the finance documents. The funds in such repair and replacement fund (the “Repair and Replacement Fund”) shall be used solely for purposes of funding repairs and replacements in accordance with applicable maintenance plans and schedules and in order to address unforeseen and emergency situations.
(f) The Parties acknowledge that areas designated as University Designated Spaces on Exhibit B may be occupied and used by the University Board and third parties designated by the University Board for any purpose or function consistent with the University Board’s mission, and that no rent, license, fee, or other charge shall be imposed by the Owner upon the University Board or its third parties for the occupancy and/or use of the University Designated Spaces, provided, however, that the Owner shall have the right to collect and the University Board or the University Board’s third parties occupying and using the University Designated Space shall pay the direct costs incurred by the Owner to provide services to support activities at the University Designated Spaces. As between the Parties, any and all rent, license, fee, charge, revenue, and other amount charged and/or collected in connection with activities at the University Designated Spaces shall be for the University Board.

Section 4.2 Repair and Maintenance.

(a) The Owner shall maintain and repair the Series 2014 Project in a manner consistent with standards comparable to on-campus student housing and the findings contained in a facilities condition assessment undertaken by the Owner at least annually by Owner and the University Board Representative. The scope of the Owner’s duties shall include interior and exterior cleaning, caulking, painting, decorating, system and equipment servicing, plumbing, carpentry, and other predictive, preventative, and routine maintenance and repair work. The Parties agree that no change in the character or use of the Series 2014 Project or alteration of any structure or component thereof or otherwise constituting a new construction program shall be made without the prior written approval of the University Board of the plan, design, and specifications and the issuance of all necessary permits and other authorizations by the University Board and governmental authorities.

(b) The Owner shall make regular periodic inspections of the Series 2014 Project to verify that the Series 2014 Project is safe and maintained in accordance with this Agreement. Except for emergency repairs necessary for the preservation and safety of the Series 2014 Project, the avoidance of the suspension of any service to the Series 2014 Project, or the protection of life or property from serious injury or damage (“Emergency Repairs”), the Owner shall first confer with the University Board Representative regarding the schedule for and scope of any material repair to the Series 2014 Project and furnish a complete written report as soon as practicable. In the event the Owner shall fail to address any Emergency Repairs immediately, the University Board shall have the right, but not the duty, to make such Emergency Repairs and to charge all costs associated therewith to the Owner.

(c) The Owner shall give the University Board notice of any material, recurring, serial, or latent defect in the Series 2014 Project or any systems, equipment, components, or part thereof immediately upon discovery thereof by the Owner, including defects in the roof, foundation, and/or walls of the Series 2014 Project or any equipment system or component thereof and in the sewer, water, electrical, structural, plumbing, heating, ventilation, air conditioning, security, information, cables, internet communication, fire prevention or suppression, or other systems.

(d) Provision is to be made in the Series 2014 Project’s annual budget for repairs of, and capital improvements to, the Series 2014 Project. The Owner shall provide advance written notification of, and shall submit applications and requests for, permits and authorizations to, the University Board Representative relating to any proposed work to be done as capital improvements at the Series 2014 Project as far in advance of the commencement of the work as possible (but in any event not less than [ninety (90)] days prior to the commencement of such work), and the Owner shall coordinate with the University Board Representative to assure the minimum disruption to the University and residents at the Series 2014 Project.
Section 4.3  **Resident Complaints/Requests.** The Owner shall maintain business-like relationships with Eligible Residents and receive and investigate in a timely manner all reasonable resident complaints and requests for services and to the extent necessary, take reasonable action thereon. The Owner shall keep systematic records, which shall be available to the University Board at anytime for inspection, audit, and copying, detailing the findings of any investigations of, and action(s) taken with respect to, each material complaint (including an alleged breach or non-performance by the Owner with respect to a sublease obligation). The Owner shall promptly report any material complaints to the University Board Representative with an appropriate recommendation or an itemization of alternatives for the University Board’s review and comment. Representatives of the Parties shall meet quarterly and upon the request of either Party to conduct a walk-through of the Series 2014 Project and review of any pending complaints or issues.

Section 4.4  **Services to Eligible Residents.** The Owner shall provide to Eligible Residents (a) the utilities and other services stipulated in the subleases, (b) mass notifications from the University, as directed by the University Board, including with respect to health, safety, security, evacuation, cessation or curtailment of classes, activities, or access to facilities, and (c) at the University Board’s cost, any other services the University Board may approve or specify in writing.

Section 4.5  **Adherence to the University Board’s Policies and Procedures.** The Owner agrees to adhere to all regulations, policies, and procedures of the University Board and the Florida Board of Governors (the “BOG”), as they may be adopted, modified, and supplemented by the University Board and the BOG in their absolute and sole discretion from time to time, including, but not limited to the policies dealing with student code of conduct, firearms, smoke free campus and alcoholic beverages (the “Rules”), in performing all duties required by this Agreement. The University Board agrees to provide the Owner with the Rules and changes thereto on a quarterly basis.

Section 4.6  **Notices to the University Board.** The Owner shall promptly (but in all events, no later than five (5) Business Days after receipt) forward to the University Board copies of all notices, demands, summonses, subpoenas, citations, or similar communications received by the Owner that claim a violation, non-compliance, breach or default by the Owner, the University Board, or the Series 2014 Project with applicable Laws or relate to claims or proceedings that might have an adverse effect on the Owner’s performance of its obligations. The Owner shall notify the University Board promptly (which notice shall include copies of supporting documentation) of any notice of violation of any Laws, any material defect, deficiency, or limitation in use or occupancy of the Series 2014 Project, any condemnation action, rezoning, or other governmental order, and any tax assessment notices.

Section 4.7  **Parking.** Except as provided in the Sublease Agreement regarding parking during construction of the Series 2014 Project, the Owner shall require its employees, agents, and contractors to abide by the University Board’s vehicle access, use, and parking policies applicable to contractors and vendors conducting business on the Campus, including the purchase of required parking permits. The University Board’s parking policies as of the Effective Date are posted at www.Parking.fiu.edu, and are subject to change by the University Board at any time and from time to time. A maximum of eight (8) parking spaces located on lots adjacent to or near the Series 2014 Project shall be reserved for designated employees of the Owner. The Owner shall arrange to obtain all necessary parking permits. Parking fees must be paid directly to the University. The Owner’s employees must purchase parking permits and comply with all parking and vehicle use policies. The Owner agrees to pay for parking fees and fines assessed to the Owner’s employees that go uncollected for a period of greater than thirty (30) days; however, such fees and fines paid by the Owner may be charged as an expense to the housing operations. All fees, charges, fines, and other amounts charged, received, or collected in connection with the operation of parking facilities on the Campus and enforcement of applicable rules shall be for the University Board. The Owner shall construct, at Owner’s sole cost and expense, surface parking for at least 308 spaces in a location designated by the University Board on Exhibit C hereto.
Section 4.8 Hours of Operation. The Owner shall manage, operate, and maintain the Series 2014 Project twenty-four (24) hours a day, seven (7) days a week, and three hundred sixty-five (365) days a year.

Section 4.9 Licenses. The Owner shall be responsible for all matters pertaining to the employment, payment, supervision, promotion, and discharge of the Owner’s employees. The Owner and its personnel shall be fully licensed, certified, registered, and qualified, to the extent required by licenses, permits, or other governmental authorizations, to perform the Owner’s obligations, functions, and duties hereunder.

Section 4.10 Allocation of Responsibility and Provision of Utility and Other Services. The following provisions provide an outline of the responsibilities for the delivery of utilities and other services to the Series 2014 Project.

(a) Landscape. The Owner shall be responsible for the design, procurement, installation and maintenance of all landscaping and all irrigation systems and equipment related thereto in connection with initial construction of the Series 2014 Project.

(b) Electric. The Owner will procure the Series 2014 Project’s electric supply directly from the local utility company, which as of the date hereof is Florida Power and Light Company (“FPL”). Electric service to the Series 2014 Project will be separately metered and all costs for electric and the interconnection with FPL’s system shall be the responsibility of the Owner.

(c) Security. The University Board and the Owner agree that, as the agency of primary jurisdiction, FIUPD is responsible for all law enforcement activity including enforcement of law and University policies on the Campus, as mandated by existing BOG regulations. The Owner shall be responsible for providing security service to the Series 2014 Project in a manner similar to that provided at other student housing facilities owned or operated by the University Board. No later than thirty (30) days after the Effective Date, the Owner and the University Board shall develop protocols and systems to facilitate entry of police and/or security forces to the Series 2014 Project in exigent circumstances. The Owner shall obtain all permits and governmental authorization to install and operate all security systems and equipment at the Series 2014 Project. The Owner shall provide copies of the Owner’s periodic security reports regarding the Series 2014 Project, and shall permit reasonable direct communication between the Owner’s representatives and the University’s police and security team in accordance with applicable Laws. The University Board and the Owner may agree to make changes to the nature, scope, and allocation of security services provided to the Series 2014 Project. The Parties shall cooperate and coordinate in the development of procedures and communication protocols to accomplish security measures and actions to address threats to health and safety of residents.

(d) Surveillance. The University Board has provided information to the Owner with respect to equipment, systems, policies, and procedures in use on the University Board’s campuses that is utilized for surveilling the campus, recording, storing and retrieving images. Owner is responsible for the cost of procuring, installing, maintaining, and monitoring the Series 2014 Project’s security camera system utilized for surveilling the outside perimeter of the Series 2014 Project and Parking Areas, as well as the cost of the University Board’s master system used to monitor security, facilities access, in-room emergency call buttons and fire notification on the Campus. In the event that the Parties shall agree upon the terms and conditions whereby security camera images would be stored on University information technology systems, the Owner shall pay the University Board, on a monthly basis, the cost of storage of such images and information and retrieval. Representatives of the University Board shall be permitted access to all security cameras for purposes of inspection and retrieval of relevant surveillance footage as required for the performance of its duties with respect to providing security services at the Campus.
(e) **Registration.** The Owner shall be responsible for the administration of Eligible Resident and guest registration procedures consistent with University operations for other student housing facilities, student identification, front desk operations, and mail and package delivery at the Series 2014 Project. The Owner shall be responsible for installing, maintaining, and monitoring access and entry to the Series 2014 Project and activities therein. The Parties shall cooperate and share information, to the extent permitted by privacy laws, in order that University students residing at the Series 2014 Project shall be able to utilize their University issued identification credentials with the same level of functionality as exists at other University student housing facilities. The Parties shall establish a communication protocol for the coordination of security information and availability of images from security cameras.

(f) **Internet and Data.** The Owner, through a third party provider, shall be responsible for the design, purchase, installation, operation, and maintenance of an internet and data system that will interconnect to a backbone furnished by the University Board.

(g) **Cable.** Cable television services to the Series 2014 Project shall be supplied by the Owner. The Owner shall enter into an agreement with a cable provider of its choice, which may include the University Board, and shall pay the cable provider the per hook-up cost, monthly service fees, and other fees and charges imposed pursuant to such agreement.

(h) **Sanitary Sewer.** The Series 2014 Project’s sanitary sewer services shall be provided by the local wastewater utility, which, as of the date of this Agreement, is the City of North Miami. Services will be separately metered at the Series 2014 Project and all fees, rentals, charges, and costs to the Series 2014 Project shall be the responsibility of Owner.

(i) **Chilled Water System.** The University Board is constructing an expansion and will operate a chilled water production and distribution system which is planned to deliver building cooling capabilities to its facilities on the Campus (the “Chilled Water System”). The parties acknowledge mutual benefits to integrating the Series 2014 Project into the Lessor’s Chilled Water System and that there is a significant incremental cost to Owner over other mechanical systems for integration into the Chilled Water System. To effect this integration, Owner at Owner’s expense is designing and constructing the Series 2014 Project to include all necessary equipment within the Series 2014 Project to connect to the Chilled Water System at a point ____ (__) feet from the foundation for the Series 2014 Project. University Board shall construct and maintain the Chilled Water System, and connect its system to the Series 2014 Project at a point ____ (__) feet from the foundation of the Series 2014 Project. Owner shall contribute $800,000 as Owner’s pro rata share of the expansion of the Chilled Water System. Owner, at its expense shall operate, maintain and replace the equipment within the Series 2014 Project. University Board shall cause chilled water to be made available to the Series 2014 Project in a manner identical to that available to its other main campus facilities. University Board and Owner agree to cause the Series 2014 Project to maintain the environment of the series 2014 Project at temperatures mutually acceptable to the Parties and consistent with environments of similar projects within the Florida State University System. Owner shall pay to University Board a monthly amount mutually acceptable to the Parties as payment for chilled water to be supplied to the Series 2014 Project, increased annually by adjustments to the CPI. No additional costs will be billed to Owner for University Board’s repairs, maintenance, or future expansion to its Chilled Water System.

(j) **Potable Water and Reuse Water.** The Series 2014 Project’s water services shall be provided directly to the Owner by the local water utility, which, as of the date of this Agreement, is the City North Miami. Reuse water service will be provided directly to the Owner by the University Board. Water service and reuse service shall each be separately metered at the Series 2014 Project and all costs, fees, and charges shall be the responsibility of the Owner.
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(k) Fire Alarm System. The Owner at its expense shall install, maintain, and operate a Class B addressable fire monitoring system within the Series 2014 Project that shall be monitored by the Owner’s third party alarm monitoring service provider. The installed system shall also be capable of simultaneously signaling the University’s police and security forces through a connection to the University’s Campus Monitoring System.

(l) Distress Alarms. The Owner shall install in all residential units of the Series 2014 Project and in prominent locations in the common areas call boxes that are connected directly to the University’s security force’s communication system and 911 emergency services system. The Owner shall service, maintain, repair, and replace all call boxes in a timely manner to assure reliability and functionality.

(m) Exterior Access Door Control. The Owner, at its expense, shall install, maintain, and replace electronic locks on all Series 2014 Project exterior doors (and interior doors requiring such locks for code compliance or as agreed by the Parties). The Owner, at its expense, shall monitor the activity at the doors and control the doors upon an event requiring such security measure.

(n) Monitoring/Notification and Other Fees. The Owner shall procure, manage, and pay for the following services: daily security, exterior door access control, fire notification, base monthly telephone charge, and maintaining the systems, equipment, and components necessary to interconnect with the Campus Monitoring System. The Parties agree to enter into formal agreements prior to the commencement of construction of the Series 2014 Project setting forth the rights, obligations, and limitations related to the aforementioned services.

(o) Stormwater. The Owner, at the Owner’s expense, shall design and construct all stormwater structures, swales, equipment, and improvements related to the Series 2014 Project, including the construction of the catch basins and detention installations to be constructed by the Owner on the University Board’s land at a location designated by the University Board] (the “Stormwater Works”). The Stormwater Works shall be transferred to the University Board, at no cost to the University Board, upon completion thereof and receipt of all permits and governmental authorizations necessary for the use and operation thereof. The University Board shall operate and maintain the Stormwater Works in accordance with all applicable Laws.

(p) Trash and Recyclables. Trash and recyclables collection and removal at the Series 2014 Project shall be the responsibility of the Owner at its expense. The Owner shall enter into a separate contract(s) with a waste management company for the collection, removal and disposal of all trash and recyclables.

Section 4.11 Residence Assistants. The Owner shall assign to the Series 2014 Project an appropriate number of student resident advisors (“RAs”), but in any event not less than one RA per 40 beds in the Series 2014 Project. Residential units occupied by RAs shall be designated to optimize the location and availability of RAs on the wings and floors of the Series 2014 Project. The RAs shall be selected by the Owner and shall be students enrolled at the University.

Section 4.12 Marketing of the Series 2014 Project. The University Board shall promote the Series 2014 Project and support the marketing efforts of the Owner in connection therewith consistent with the criteria set forth in Article 6 Section D of the Sublease Agreement, as it might be changed by changes to the University Board’s general policies and as agreed by the Parties.

Section 4.13 University Use of Series 2014 Project. The University Board reserves all naming rights and associated rights, interests, property, privileges and benefits in any way related to the Series 2014 Project. The Parties agree that the University Designated Spaces and certain rooms, facilities, and space at the Series 2014 Project designated by the Parties shall be available for occupancy and use by the University Board, related organizations and/or third parties pursuant to sublease or license agreements
between the University Board and such third parties. The Owner shall not charge any fee, rent, or other charge for the use of such space provided, however, the Owner shall have the right to collect all direct and indirect costs incurred by the Owner associated with such use, appropriately allocated to the specific use by the University Board, related organizations, or third parties, including utilities, insurance premiums, security, janitorial, hospitality and other such services.

Section 4.14 Emergency. The Parties acknowledge that the Campus is located in a mandatory evacuation zone, and must be evacuated in the event that a notice to evacuate is issued by or at the direction of state/county officials through FIU Public Safety to facility management. Series 2014 Project management shall follow evacuation directives closely and promptly in order to achieve the evacuation of the Series 2014 Project by all residents and personnel at the Series 2014 Project. The University Board shall make shelters located on its main campus available for all eligible evacuated residents of the Series 2014 Project and the Owner shall organize, publicize, and provide transportation to such shelter for all such evacuated residents.

Section 4.15 University’s General Duties.

(a) The University Board acknowledges that under the Loan Agreement, the Owner has agreed: (i) to exercise skill and diligence in the operation of the Series 2014 Project such that the Fixed Charges Coverage Ratio in each Annual Period will be not less than 1.20, and (ii) that in the event that for any Annual Period the Fixed Charges Coverage Ratio is less than 1.20, the Owner will engage a Consultant to review the operations of the Series 2014 Project and make recommendations concerning changes that will enable the Owner to achieve a Fixed Charges Coverage Ratio of 1.20.

(b) The University Board agrees that it will not take any action, nor assist others in taking any action on its behalf, that materially adversely affects the marketability of the Series 2014 Project or the Series 2014 Project’s ability to maintain a Fixed Charges Coverage Ratio of at least 1.20. This covenant shall not be construed to prohibit the University Board from constructing or acquiring, or causing others to construct or acquire on its behalf, additional new student housing facilities serving students at the Campus, subject to the conditions in Section 4.17.

Section 4.16 Additional Student Housing. In the event the University Board shall determine to construct, acquire, or lease, to permit another entity to construct, acquire, or lease, or to enter into any agreement with another entity that constructs, acquires, or leases (whether acting for itself or through an agency or entity affiliated with or hired by the University Board), additional new student housing facilities that increase the bed capacity of housing facilities serving students at the Campus (“Additional New Beds”) and the Owner is then operating the Series 2014 Project in accordance with the provisions, if any, of the Ground Sublease, and has remaining obligations under the Loan Agreement with respect to the payment of the debt service on the Series 2014 Bonds, the University agrees that such Additional New Beds shall be undertaken only (i) if there shall be prepared by the University Board Representative, or its designee, and filed with the Trustee (A) a certificate regarding the Fixed Charges Coverage Ratio determined as provided by the Loan Agreement evidencing that for each of the two (2) Annual Periods immediately preceding the construction or acquisition of the proposed Additional New Beds, the Fixed Charges Coverage Ratio was greater than or equal to 1.20 and (ii) a written report of a Consultant showing that (giving effect to the construction or acquisition of such Additional New Beds) the expected Fixed Charges Coverage Ratio for each of the two (2) Annual Periods immediately following the Annual Period in which such Additional New Beds are expected to be placed in operation is not less than 1.20.

INDEMNIFICATION

Section 5.1 Indemnitees.

(a) Notwithstanding that joint or concurrent liability may be imposed upon the University Board, by applicable Law, the Owner shall, upon demand, indemnify, defend, hold harmless,
and reimburse the University Board, and its officers, employees, contractors, and agents (the “Indemnites”) from and against and for any and all losses, damages, claims, actions, investigations, liabilities, obligations, penalties, fines, suits, claims, demands, actions, costs, and expenses of any kind or nature (including reasonable architects’, engineers’, and attorneys’ fees), that may arise out of, relate to, result from or are imposed upon or asserted against Indemnites by reason of the Owner’s occupancy, operation, maintenance, repair, replacement, alteration, and/or use of the Series 2014 Project, including the occurrence of any one or more of the following events (unless and except to the extent caused by the gross negligence or willful misconduct of the University Board), or of facts or events that result in any one or more of the following:

(i) Any breach, violation, or non-performance of any obligation, covenant, duty, or agreement in this Agreement or the Ground Sublease by the Owner, including any failure of the Owner to maintain or renew any surety bond or insurance policy required by the terms of the Ground Sublease or this Agreement;

(ii) Any accident, injury, or damage to person and/or property, arising from any operation, maintenance, use, or occupancy of the Series 2014 Project;

(iii) Any negligence or wrongful act or omission on the part of the Owner or any of its agents, contractors, vendors, servants, employees, licensees, subtenants, or invitees, or anyone claiming by or through the foregoing; or

(iv) Any construction, work, service, activity, task, or thing done by or for Owner in, on, or about or affecting the Series 2014 Project and/or on any sidewalk, street, alley, curb, passageway, or space adjacent thereto, or any part thereof;

(b) If the Owner shall be required to defend any action or proceeding pursuant to this Article, the University Board shall also be entitled to appear, defend, or otherwise take part in the matter involved, at its election, by counsel of its own choosing, and to the extent the University Board is indemnified under this Article, the Owner shall bear the cost of the University Board’s defense, including attorneys’ fees.

ARTICLE VI
DEFAULT AND TERMINATION

Section 6.1 Events of Default. The occurrence of any of the following events is an event of default (an “Event of Default”) by a Party (the “Defaulting Party”):

(i) Failure of the Defaulting Party to duly and punctually make any payment owing to the other Party (the “Non-Defaulting Party”), as and when the same becomes due and payable, and the continuation of such failure for a period of thirty (30) days after written notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(ii) An Event of Default shall have occurred under the Ground Sublease that is the result of any action or inaction by the Defaulting Party;

(iii) Any other material breach of or failure to perform any covenants, obligations, or agreements to be performed by the Defaulting Party under this Agreement that is not cured within thirty (30) days after written notice of noncompliance from the Non-Defaulting Party; provided, however, that, if a breach or failure cannot reasonably be cured within such thirty (30) day period, then an Event of Default shall not be deemed to have occurred, so long as the Defaulting Party shall commence to cure such breach or failure within such thirty (30) day period, shall pursue the completion thereof with diligence and continuity, and shall cure such breach or failure within sixty (60) days after receipt of the notice of noncompliance;
(iv) The Defaulting Party shall make an assignment for the benefit of creditors, shall file a petition in bankruptcy, petitioning, or applying to any court or tribunal for the appointment of a custodian, liquidator, receiver, or any trustee for it or a substantial part of its assets, or shall commence any proceedings under any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or if there having been filed any such petition or application, or any such proceeding having been commenced against such Defaulting Party, in which an order for relief is entered or that shall remain pending for a period of one hundred and twenty (120) days after written notice thereof shall have been given by the Non-Defaulting Party and the holder of any leasehold mortgage encumbering the leasehold interest under the Ground Sublease; or

(v) The Defaulting Party shall be dissolved or shall otherwise voluntarily avail itself of any federal or state laws for the relief of debtors, admit in writing its inability to pay its debts as they become due, or make a general assignment for the benefit of creditors.

Section 6.2 Termination.

(a) Upon the occurrence of an Event of Default, the Non-Defaulting Party shall have the right to terminate this Agreement upon written notice to the Defaulting Party. The effective date of such termination may not be less than thirty (30) days or more than sixty (60) days after the date of the notice of termination.

(b) The University Board may terminate this Agreement for convenience by sending written notice of termination to Owner in connection with, and effective simultaneously with, the exercise of the Purchase Option under the Ground Sublease.

(c) Notwithstanding termination, neither Party shall be released from any outstanding obligations under this Agreement or any obligations that continue beyond the term or termination of this Agreement, including, without limitation, indemnity obligations.

Section 6.3 Duties Upon Termination. Upon termination, the Owner shall promptly and in any event within five (5) Business Days:

(i) vacate and surrender the Series 2014 Project to the University Board and thereafter provide reasonable services and resources to facilitate an orderly transition that minimizes interruption of and interference with residents and activities at the Series 2014 Project;

(ii) deliver to the University Board all materials, supplies, keys, documents, books, records, drawings, manuals, logs, accounts, reserve funds, and reports related to the Series 2014 Project;

(iii) assign to the University Board all existing contracts (including leases with Eligible Residents) relating to the operation and maintenance of the Series 2014 Project, which the University Board may elect at its sole discretion to receive assignment of, and

(iv) provide to the University Board hard copies and electronic copies of all Series 2014 Project related information in a format acceptable to the University Board.

Section 6.4 Waiver. The waiver of any right or remedy arising from a breach of an obligation, covenant, or failure of performance shall not constitute a waiver of any right or remedy arising from either a subsequent default of the same obligation or covenant or by breach or failure of any other obligation or covenant. Acceptance by either Party of any payment made by the other Party shall not be a waiver of the right of the recipient to contest whether or not the full amount due shall have been paid, nor a waiver of any other rights or remedies hereunder. Failure by either Party to complain of any action,
non-action, non-compliance, breach, default, or Event of Default of the other Party shall not be a waiver of any rights hereunder. A waiver must be in a writing signed by the Party to be bound thereby in order to be effective.

Section 6.5 Specific Performance. The Parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, any Party who may be injured (in addition to any other remedies that may be available to that Party) shall be entitled to one or more preliminary or permanent orders (a) restraining and enjoining any act that would constitute a breach or (b) compelling the performance of any obligation that, if not performed, would constitute a breach.

Section 6.6 Consequential Damages. Except in connection with third party claims covered by the indemnity provisions of Article V hereof, neither the Owner nor the University Board shall be liable to the other Party for any lost profits or special, incidental, punitive, exemplary, or consequential damages in connection with this Agreement except as shall arise out of, relate to, or be caused by the unlawful release disclosure or use of personal identifiable information.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Entire Agreement; Modification. This Agreement and all Exhibits attached hereto constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings of the Parties in connection therewith. No covenant, representation, or condition not expressed in this Agreement shall affect, or shall be effective to interpret, change, or restrict, the express provisions of this Agreement. No amendment, change, or modification of this Agreement shall be valid unless it shall be in writing and signed by duly authorized representatives of the University Board and the Owner. A waiver or a right or remedy shall only be enforceable if made in writing by the Party to be bound thereby.

Section 7.2 Headings. The Article and Section headings in this Agreement are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

Section 7.3 Governing Law. This Agreement is governed by the laws of the State of Florida, without regard to choice of law provisions, and applicable federal laws.

Section 7.4 Legal Costs. If a dispute shall arise out of, or concerning the terms of, this Agreement, then the prevailing Party in the dispute shall be entitled to recover its reasonable legal fees, costs, and expenses, whether at the trial or appellate level.

Section 7.5 Third Party Beneficiaries. Except as expressly set forth to the contrary in this Agreement, each of the parties agree that no individual and/or entity is intended to have, nor shall such individual and/or entity be deemed to have, any rights or remedies as a third party beneficiary to, or under, this Agreement or otherwise and each of the parties acknowledge and agree that any benefit conferred to any such individual and/or entity is, and shall be deemed for all purposes to be, merely incidental.

Section 7.6 Binding Effect. This Agreement and all of its terms and provisions shall be binding upon, and shall inure to the benefit of, the Parties and their successors and permitted assigns.

Section 7.7 Notices. All notices, demands, requests and communications hereunder to the Owner or to the University Board shall be validly and sufficiently served, given or made only if mailed by registered mail, postage prepaid, or by overnight delivery service, addressed as follows: (a) if to Owner,, c/o National Campus and Community Development Corporation, 98 San Jacinto Boulevard, Suite 2020, Austin, Texas 78701 Attention: President; or (b) if to the University Board, Florida International
University. Office of the Senior Vice President and Chief Financial Officer located at 11200 SW 8th Street, Room PC525, Miami, FL 33156; with a copy to Florida International University, Office of the General Counsel located at 11200 SW 8th Street, Room PC511, Miami, FL 33156. Either Party may designate, by notice in writing, new or additional addresses to which any such notice, demand or communication shall thereafter be sent.

Section 7.8  **Severability.** If any provision of this Agreement shall be declared or found to be illegal, invalid, unenforceable, or void, in whole or in part, then the Parties shall be relieved of their respective obligations arising under such provision, but only to the extent that it shall be illegal, invalid, unenforceable, or void, it being the intent and agreement of the Parties that this Agreement shall be deemed amended by modifying the provision to the extent necessary to make it legal, valid, and enforceable while preserving its intent or, if that shall not be possible, by substituting therefor another provision that shall be legal, valid and enforceable and shall achieve the same objectives.

Section 7.9  **Performance.** Time is of the essence in the performance of all duties, covenants, and obligations hereunder.

Section 7.10  **Exhibits.** All Exhibits attached to this Agreement are incorporated herein by reference.

Section 7.11  **Relationship of Parties.** Nothing contained herein or in any instrument relating hereto shall be construed as creating a partnership, joint venture, or association between the University Board and the Owner or between the University Board and any other party, or cause the University Board to be responsible in any way for debts or obligations of the Owner or any other party. The Owner will be responsible for the hiring, training, supervision, management, promotion, and terms of employment of all persons employed by it.

Section 7.12  **Survival.** Any provisions that by their nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement shall, in fact, survive.

Section 7.13  **Successors and Assigns.** The Owner may not directly or indirectly assign or transfer, or permit the direct or indirect assignment or transfer of, this Agreement, any rights or benefits under this Agreement, or any interest in Owner without the prior written approval of the University Board, which approval may be granted or withheld in the University Board’s absolute and sole discretion[; provided that the Owner may assign its rights under this Agreement to the indenture trustee as security for bonds issued to finance construction of the Series 2014 Project].

Section 7.14  **Security Reporting.** The Owner shall provide information sufficient for the University Board to meet its obligations with respect to reporting on security, including but not limited to reporting required under The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act at 20 U.S.C. § 1092(f).

Section 7.15  **Limitation of Recourse; No Liens.**

(a) There shall be no liability under this Agreement of, or any recourse under this Agreement to, any official, officer, director, member, shareholder, partner, employee, or agent of either Party. This Agreement shall not create an interest in real property and it shall not be recorded in the public records of any jurisdiction. Notwithstanding anything to the contrary contained herein, neither the Owner, nor any officer, shareholder, partner, member, representative, or agent thereof, shall be entitled to place, file, or record a lien or *lis pendens* upon or against the Series 2014 Project on account of any sums alleged to be due and payable to the Owner, unless such claim is reduced to a judgment, and if the Owner does so in violation of this provision, such circumstance shall be an Event of Default and without limiting any other rights or remedies of the University Board, entitle the University Board to terminate this Agreement.

(b) Notwithstanding anything herein to the contrary, the liability of the Owner hereunder (including, but not limited to its indemnity obligations) shall be “non-recourse” and,
accordingly, the University Board’s and the University’s sole source of satisfaction of such obligations shall be limited to the Owner’s interest in the Series 2014 Project and the rents, issues and surplus related thereto, and the University Board shall not seek to obtain payment from any person or entity comprising the Owner or from any assets of the Owner other than those described herein, notwithstanding the survival of any obligation of the Owner beyond the term hereof.

Section 7.16 **Holidays.** Whenever any time limit or date provided herein shall fall on a Saturday, a Sunday, or located Holiday, then that date shall be extended to the next day that is not a Saturday, a Sunday, or a Holiday.

Section 7.17 **University’s Obligations Subject to Appropriation.** The obligation of the University Board to perform its covenants under this Agreement in any Annual Period shall be subject to the appropriation of funds sufficient for the purpose. If sufficient funds shall not be available and appropriated to enable the University Board to perform its covenants under this Agreement, the Owner and the indenture trustee each shall have the right, but shall not be obligated, to pay or advance amounts for payment of the expenses associated with those covenants.

Section 7.18 **Sovereign Immunity.** This Agreement does not affect the immunities, exemptions and limitations of liability of the University Board under Florida Statute 768.28 and other Applicable Laws of the State of Florida. Nothing in this Agreement shall be deemed to affect the rights, privileges and immunities afforded the University Board, the Florida Board of Governors and the State of Florida by law. Nothing herein shall be construed as consent by Landlord to be sued by third parties in any manner arising out of this Sublease.

Section 7.19 **Counterparts.** This Agreement may be executed in one or more counterparts with the same effect as if all Parties had signed the same document. All counterparts shall be construed together and constitute the same instrument. In making proof of this Agreement, it shall not be necessary to account for more than one counterpart executed by the Party against whom enforcement shall be sought.

Section 7.20 **Expenses.** All costs, fees, and expenses incurred by the Owner and the University Board hereunder in connection with the preparation, execution, performance, administration and enforcement of this Agreement (including any indemnification expenses) shall be expenses of the Series 2014 Project and paid from proceeds of the Series 2014 Bonds.

Section 7.21 **Waiver of Jury Trial.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN), OR ACTION BETWEEN OR AMONG THE PARTIES OR ANY EXERCISE BY ANY PARTY OF ITS RESPECTIVE RIGHTS UNDER THIS AGREEMENT OR IN ANY WAY RELATING TO THE PROJECT. THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT. THIS WAIVER SURVIVES THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first above written.

UNIVERSITY BOARD:

FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

By:
Printed Name:
Title:

OWNER:

NCCD – BISCAYNE PROPERTIES LLC

By: NATIONAL CAMPUS AND COMMUNITY DEVELOPMENT CORPORATION, its sole member

By: Charles G. Eden, President
EXHIBIT A
LEGAL DESCRIPTION

[TO BE INSERTED]

Phase 1: [TO BE INSERTED]

Phase 2: [TO BE INSERTED]
EXHIBIT B
DESCRIPTION OF FACILITY

EXHIBIT C
EXHIBIT D
EXHIBIT E
EXHIBIT F
EXHIBIT G
Preliminary Official Statement Dated June ____, 2014

New Issue - Book-Entry-Only

Rating: See “Rating of the Series 2014 Bonds”

In the opinion of Bryant Miller Olive P.A. and Manuel Alonso-Poch, P.A., Co-Bond Counsel, assuming continuing compliance by the Issuer and the Borrower with certain covenants, under existing statutes, regulations and judicial decisions, the interest on the Series 2014A Bonds is excluded from gross income for federal income tax purposes of the holders thereof and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest on the Series 2014A Bonds shall be taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax on corporations.

Interest on the Series 2014B Bonds will not be excluded from gross income for federal income tax purposes. See “Tax Matters” herein for a description of certain other tax consequences to holders of the Series 2014 Bonds.

$[Amount of A Bonds]

Miami-Dade County Industrial Development Authority
Industrial Development Revenue Bonds
(NCDC - Biscayne Properties LLC Project)
Series 2014A

Dated: Date of Delivery

The Series 2014A Bonds are being issued by the Miami-Dade County Industrial Development Authority (the “Issuer”) to provide funds (i) to finance substantially all of the cost of acquiring, constructing, furnishing, and equipping a [618]-bed student housing facility, including the buildings, furniture, fixtures, and equipment thereof, (the “Series 2014 Project”), to be located on the Biscayne Bay Campus of Florida International University (the “University”) in the City of North Miami, Florida, and in Miami-Dade County, Florida (the “County”), (ii) to fund the costs of marketing the Series 2014 Project, (iii) to provide working capital for the Series 2014 Project to fund certain administrative costs and other expenses necessary or incident to the construction of the Series 2014 Project, (iv) to fund interest on the Series 2014A Bonds during the construction of the Series 2014 Project, (v) to fund the Debt Service Reserve Fund for the Series 2014A Bonds, and (vi) to pay a portion of the costs of issuing the Series 2014A Bonds. The Series 2014 Project will be owned and operated by NCCD - Biscayne Properties LLC (the “Borrower”), a Tennessee single member limited liability company whose sole member is National Campus and Community Development Corporation (the “Corporation”) a Texas non-profit corporation.

The Series 2014B Bonds are being issued (i) to finance a minor portion of the cost of acquiring, constructing, furnishing, and equipping the Series 2014 Project, (ii) to pay the remaining portion of the costs of issuing the Series 2014A Bonds, (iii) to fund interest on the Series 2014B Bonds during the construction of the Series 2014 Project, and (iv) to pay the costs of issuing the Series 2014B Bonds.

The Series 2014A Bonds and the Series 2014B Bonds (collectively, the “Series 2014 Bonds”) are limited obligations of the Issuer and do not constitute a debt, liability, or general obligation of the Issuer, the County, the State of Florida (the “State”), or any political subdivision or agency of the County or the State. Neither the faith and credit nor the taxing power of the County, the State, or any political subdivision or agency of the State is pledged to the payment of the principal and redemption price of, and premium, if any, and interest on (collectively, the “Debt Service Payments”), the Series 2014 Bonds. The owners of the Series 2014 Bonds shall have the right to compel any exercise of the taxing power of the County, the State, or any political subdivision or agency of the State to pay the Series 2014 Bonds, any premium thereon, or the interest thereon. The Issuer has no taxing power and receives no appropriations from the County, the State, or any other governmental body. The Series 2014 Bonds are payable solely, except to the extent paid out of moneys attributable to proceeds of the Series 2014 Bonds and from temporary investments thereof, from a pledge by the Issuer of moneys derived from the leasehold mortgage and assignment of rents and subleases and the security agreement (both as defined and described herein). See “Security and Sources of Payment for the Series 2014 Bonds.” Additionally, the Borrower’s obligations with respect to the Series 2014 Bonds are non-recourse. See “Non-Recourse Obligation of the Borrower” herein.

The Series 2014 Bonds will be issuable as fully registered bonds without coupons in the denominations of $5,000 and any multiple thereof. The Series 2014 Bonds will bear interest from the date of issuance and delivery thereof, payable semiannually on each January 1 and July 1, commencing January 1, 2015 (each, an “Interest Payment Date”). Principal and interest payments on the Series 2014 Bonds will be made by Regions Bank, as Trustee, to the registered owners of the Series 2014 Bonds as of the close of business on the fifteenth (15th) day (whether or not a business day) of the month immediately preceding each Interest Payment Date. The Series 2014 Bonds will be subject to prior mandatory, optional, and extraordinary redemption as described herein. See “The Series 2014 Bonds” herein.

The Series 2014 Bonds will be issued as fully registered bonds and when issued will be initially registered in the name of Cedco & Co., as registered owner and nominee for The Depository Trust Company, New York, New York (“DTC”). DTC will act as securities depository for the Series 2014 Bonds and purchasers of the Series 2014 Bonds will not receive certificates evidencing their ownership interests therein. So long as Cedco & Co. is the registered owner of the Series 2014 Bonds as nominee of DTC, references herein to the Owners of the Series 2014 Bonds shall mean Cedco & Co. and shall not mean the beneficial owners of the Series 2014 Bonds. So long as Cedco & Co. is the registered owner of the Series 2014 Bonds, the Debt Service Payments on the Series 2014 Bonds will be made to Cedco & Co., as nominee for DTC, which will in turn remit such Debt Service Payments to the Direct Participants and Indirect Participants for subsequent disbursement to the beneficial owners. See “Book-Entry System” in Appendix “F.”

See “Certain Bondholders’ Risks” herein for a discussion of certain risk factors that should be considered in connection with an investment in the Series 2014 Bonds. Each prospective purchaser should consider the risks involved in determining the suitability of investing in the Series 2014 Bonds.

The Series 2014 Bonds are offered when, as, and if issued by the Issuer and received by the Underwriter and are subject to prior sale and the approval of legality by Bryant Miller Olive P.A., Tampa, Florida, and Manuel Alonso-Poch, P.A., Coral Gables, Florida, Co-Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the Issuer by Gerald T. Heffernan, Esquire, Miami, Florida; for the Borrower and the Corporation by Waller Lansden Dorich & Davis, LLP, Nashville, Tennessee; for the University by Bryant Miller Olive P.A., Orlando, Florida; and for the Underwriter by Haynsworth Sinkler Boyd, P.A., Charleston, South Carolina. Dunlap & Associates, Inc., Winter Park, Florida, is acting as financial advisor to the University.

Delivery of the Series 2014 Bonds to DTC in New York, New York is expected on or about [Month] ____, 2014.

† Preliminary, Subject to Change
$[Amount of A Bonds]†
Miami-Dade County Industrial Development Authority
Industrial Development Revenue Bonds
(NCCD - Biscayne Properties LLC Project)
Series 2014A

SERIES 2014A BONDS MATURITY SCHEDULE†

$[AMOUNT OF SERIAL BONDS] SERIAL BONDS†

<table>
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<tr>
<th>Maturity July 1</th>
<th>Principal Amount</th>
<th>Interest Rate</th>
<th>Yield</th>
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$[AMOUNT OF TERM BONDS] TERM BONDS†

$___________ _____% Term Bonds due July 1, 2029, Price _________%, Yield ††† ______% , CUSIP ††

$___________ _____% Term Bonds due July 1, 2034, Price _________%, Yield ††† ______% , CUSIP ††

$___________ _____% Term Bonds due July 1, 2044, Price _________%, Yield ††† ______% , CUSIP ††

$[Amount of B Bonds]†
Miami-Dade County Industrial Development Authority
Taxable Industrial Development Revenue Bonds
(NCCD - Biscayne Properties LLC Project)
Series 2014B

SERIES 2014B BONDS MATURITY SCHEDULE†

$___________ _____% Term Bonds due July 1, [B Maturity], Price _________%, Yield ††† ______% , CUSIP ††

ISSUER
MIAMI-DADE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

CO-BOND COUNSEL
Bryant Miller Olive P.A., Tampa, Florida
Manuel Alonso-Poch, P.A., Coral Gables, Florida

TRUSTEE
Regions Bank, Jacksonville, Florida

UNDERWRITER
Raymond James & Associates, Inc.

UNDERWRITER COUNSEL
Haynsworth Sinkler Boyd, P.A., Charleston, South Carolina

† Preliminary, Subject to Change
†† CUSIP numbers are copyright by the American Bankers Association. CUSIP data herein is provided by Standard & Poor’s, CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. This data is being provided solely for the convenience of the owners of the Series 2014 Bonds only at the time of issuance thereof, and the Issuer does not make any representation with respect thereto or undertake any responsibility for its accuracy now or at any time in the future. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Service Bureau.
††† Yield to first optional redemption date [**Note** - Premium Bonds Maturing After the First Optional Call Date Only]
If and when included in this Official Statement or in documents incorporated herein by reference, the words “expects,” “intends,” “anticipates,” and “estimates” and analogous expressions are intended to identify “forward looking statements,” as defined in the Private Securities Litigation Reform Act of 1995. Any such statements, which may include statements contained in “THE SERIES 2014 PROJECT,” “CERTAIN BONDHOLDERS RISKS,” “MARKET STUDY,” and “CASH FLOW FORECAST” inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward looking statements. Such risks and uncertainties include, among others, general economic and business conditions; competition; changes in political, social, and economic conditions; regulatory initiatives and compliance with governmental regulations; discovery of previously unknown conditions; and various other events, conditions, and circumstances. These forward looking statements speak only as of the date of this Official Statement. The Issuer, the Underwriter, and the Borrower expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward looking statement contained in this Official Statement to reflect any change in their expectations with regard thereto or any change in events, conditions, or circumstances on which any such statement is based.

This Official Statement does not constitute an offering of any security other than the original offering of the Series 2014 Bonds identified on the cover hereof. No dealer, broker, salesman, or other person has been authorized by the Issuer, the Underwriter, the Borrower, or the University to give any information or to make any representations other than those contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been given or authorized by any of the foregoing. The information set forth herein has been obtained from the Issuer, the Borrower, the University, and other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness. The delivery of this Official Statement at any time does not imply that the information herein is correct as of any time subsequent to its date. The information and expressions of opinions herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer, the Borrower, or the University since the date hereof.

The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to prospective purchasers of the Series 2014 Bonds under the federal securities laws as applied to the facts and circumstances of the offering made hereby, but the Underwriter does not guarantee the accuracy or completeness of such information.

Upon issuance, the Series 2014 Bonds will not be registered by the Issuer under the Securities Act of 1933, as amended, or the securities law of any state, and will not be listed on any stock or other securities exchange. The Series 2014 Bonds have not been approved or disapproved by the Securities and Exchange Commission (the “SEC”), any stock or other securities exchange, or any agency of any state in which that may be offered. Neither the SEC nor any such stock or other securities exchange or state agency has guaranteed or passed on the safety of the Series 2014 Bonds as an investment, upon the probability of any earnings thereon, or upon the accuracy or adequacy of this Official Statement. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, and there shall not be any sale of, the Series 2014 Bonds by any person in any jurisdiction in which it is unlawful to make such offer, solicitation or sale.

In connection with this offering, the Underwriter may over allot or effect transactions that stabilize or maintain the market price of the Series 2014 Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Underwriter may offer and sell the Series 2014 Bonds to certain dealers and dealer banks and banks acting as agent at prices lower than the public offering price stated on the cover page hereof and said public offering price may be changed from time to time by the Underwriter.

The Series 2014 Bonds will not be listed on a securities exchange or inter-dealer quotation system. Although the Underwriter currently intends to make a market for the Series 2014 Bonds, the Underwriter is not obligated to purchase any of the Series 2014 Bonds in the future, and such market making may be discontinued at any time. There can be no assurance that there will be a secondary market for the Series 2014 Bonds, and the absence of such a market for the Series 2014 Bonds could result in investors not being able to resell their Series 2014 Bonds should they need or wish to do so.
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The following Summary Statement is qualified in its entirety by the more detailed information and financial statements contained elsewhere in this Official Statement and the Appendices hereto (collectively, the “Official Statement”). The offering of the Series 2014 Bonds to prospective purchasers is made only by means of this entire Official Statement, and no person is authorized to detach this Summary Statement from the Official Statement or to use it otherwise without the entire Official Statement.

All capitalized terms used in this Official Statement and not otherwise defined herein shall have the meanings ascribed thereto in Appendix “D” hereto.

The Issuer

The Miami-Dade County Industrial Development Authority (the “Issuer”) is a public body corporate and politic organized under the laws of the State of Florida (the “State”) and is authorized pursuant to the Constitution and laws of the State, and particularly in conformity with the provisions, restrictions, and limitations of the Constitution of the State, Chapter 159, Parts II and III, Florida Statutes, and other applicable provisions of law, and as the same may be from time to time supplemented and amended (the “Act”), to issue revenue bonds or other debt obligations repayable solely from revenues derived from the sale, operation, or leasing of projects or other payments received under financing agreements with respect thereto.

The Borrower

NCCD - Biscayne Properties LLC (the “Borrower”) is a single member limited liability company organized and existing under the laws of the State of Tennessee and is authorized to do business in the State. National Campus and Community Development Corporation (the “Corporation”) is the sole member of the Borrower. The proceeds of the Series 2014 Bonds (hereinafter defined) will be loaned by the Issuer to the Borrower pursuant to a Loan Agreement (the “Loan Agreement”) dated as of [Month] 1, 2014, between the Issuer and the Borrower to finance the costs described below under “The Series 2014A Bonds” and “The Series 2014B Bonds.” The Borrower has no assets and is not expected to have any assets other than the Project. See “THE BORROWER” herein.

The Corporation

The Corporation is a non-profit corporation organized and existing under the laws of the State of Texas and is an exempt organization under §501(c)(3) of the Internal Revenue Code of 1986, as amended. See “THE BORROWER” herein. The Corporation will have no obligation with respect to the hereinafter described Series 2014 Bonds or under the hereinafter described Ground Sublease, Loan Agreement, Leasehold Mortgage, Security Agreement, Assignment of Contracts and Agreements, or Indenture.

The Series 2014A Bonds

The Issuer will issue $[Amount of A Bonds]† principal amount of revenue bonds to be designated “Miami-Dade County Industrial Development Authority Industrial Development Revenue Bonds (NCCD - Biscayne Properties LLC Project) Series 2014A” (the “Series 2014A Bonds”) for the purpose of providing funds (i) to finance[ substantially all of] the cost of acquiring, constructing, furnishing, and equipping a [618]-bed student housing facility, including the buildings, furniture, fixtures, and equipment therefor, (the “Series 2014 Project”) to be located on the Biscayne Bay Campus (the “BBC”) of Florida International University (the “University”) in the City of North Miami, Florida, and in Miami-Dade County, Florida (the “County”), (ii) [to fund the costs of marketing the Series 2014 Project, (iii) to provide working capital for the Series 2014 Project/to fund certain administrative costs and other expenses necessary or incident to the construction of the Series 2014 Project], ([iii/iv]) to fund interest on the

† Preliminary, Subject to Change
Series 2014A Bonds during the construction of the Series 2014 Project, ([iv/v]) to fund the Debt Service Reserve Fund (hereinafter defined) for the Series 2014A Bonds (hereinafter defined), and ([v/vi]) to pay a portion of the costs of issuing the Series 2014A Bonds.

The Series 2014B Bonds

The Issuer is issuing $[Amount of B Bonds]$ principal amount of revenue bonds to be designated “Miami-Dade County Industrial Development Authority Taxable Industrial Development Revenue Bonds (NCCD - Biscayne Properties LLC Project) Series 2014B” (the “Series 2014B Bonds”) for the purpose of providing funds (i) to finance a minor portion of the cost of acquiring, constructing, furnishing, and equipping the Series 2014 Project, (ii) to pay the remaining portion of the costs of issuing the Series 2014A Bonds, (iii) to fund interest on the Series 2014B Bonds during the construction of the Series 2014 Project, and (iv) to pay the costs of issuing the Series 2014B Bonds.

The Trustee

Regions Bank, Jacksonville, Florida will act as trustee, bond registrar, and paying agent for the Series 2014A Bonds and the Series 2014B Bonds (collectively, the “Series 2014 Bonds”).

The University

The University is a state university existing under the constitution and the laws of Florida. It was founded in 1969. The University’s main (Modesto A. Maidique) campus (the “MMC”) is located in the city of Miami, Florida. The BBC is located in the city of North Miami, Florida, approximately twenty-six (26) miles from the MMC.

Student enrollment for fall of 2013 is approximately 52,980, which is a 5.13% increase over the 2012-2013 academic year. Entering freshman enrollment in the fall of 2013 increased 13.43% over the fall of 2012. See “THE UNIVERSITY” herein.

Current housing at the University consists of 3,456 beds in eight (8) on-campus residence facilities which comprise the university housing system. One of those facilities, Bay Vista Housing (“BVH”), is currently the only student housing facility at the BBC. BVH is scheduled to be taken offline in May 2014. See “THE SERIES 2014 PROJECT - EXISTING ON-CAMPUS HOUSING” in APPENDIX “A” hereto.

The Series 2014 Project

The Series 2014 Project will consist of (i) a two hundred fifty (250) unit student housing facility, contained in a single building, comprised of eighty (80) four-bedroom, two-bathroom units, one hundred twenty-eight (128) two-bedroom, two-bathroom units forty (40) studio units, and two (2) one-bedroom, one-bathroom staff units aggregating 296,910 gross square feet and (ii) a three hundred nine (309) space parking lot. The Series 2014 Project will be managed by the Manager. See “THE MANAGER” herein and “THE SERIES 2014 PROJECT” in APPENDIX “A” hereto. The site on which the Series 2014 Project will be constructed (the “Property”) is located on the Campus and will be subleased to the Borrower pursuant to a Sublease Agreement (the “Ground Sublease”) dated as of [Month] 1, 2014, between the Board of Trustees of the University, as landlord, (the “Ground Sublessor”) and the Borrower, as tenant.

The Developer

Servitas, LLC (the “Developer”), a Texas limited liability company, was formed in 2010 for the express purpose of providing design and development services to the higher education industry. As of the present date, the Developer and its key personnel have developed (or have been selected to develop) approximately 10,834 on-campus student beds, on thirty (30) separate collegiate campuses (including the Series 2014
The General Contractor

Kaufman Lynn Construction, Inc. (the “General Contractor”), a Florida corporation, was formed in ______________. As of the present date, the General Contractor has constructed (or has been selected to construct) over ________ beds, on __________ separate collegiate campuses (including the Series 2014 Project). The General Contractor’s headquarters are in ______________. See “THE GENERAL CONTRACTOR AND THE GENERAL CONSTRUCTION CONTRACT” herein.

The Architect

Pierce, Goodwin, Alexander & Linville, LLC (the “Architect”), a Texas limited liability company, was formed in 1946. As of the present date, the Architect has designed (or has been selected to design) over 20,000 beds, on 16 separate collegiate campuses (including the Series 2014 Project). The Architect’s headquarters are in Houston, Texas, but has offices in Boca Raton, Florida. See “THE GENERAL CONTRACTOR AND THE GENERAL CONSTRUCTION CONTRACT” herein.

The Manager

Servitas Management Group, LLC (the “Manager”), a Texas limited liability company, was formed in 2012 for the express purpose of providing property management services to the higher education industry. Principals of the Manager have previously managed a portfolio of sixteen (16) projects comprising eight thousand (8,000) beds, located across the South and Midwest. As of the present date, the Manager manages (or has been selected to manage) 2,165 private beds of housing on four (4) separate collegiate campuses (including the Series 2014 Project). The Manager’s corporate headquarters are in Irving, Texas, and it has on-site property managers at each student housing location as well as regional management supervision. The Manager was selected to manage the Series 2014 Project as a result of an ITN (Invitation to Negotiate) request made by the University. See “THE MANAGER” herein.

The Ground Sublease

Pursuant to the Ground Sublease, the Ground Sublessor will lease the Property to the Borrower, for a term of forty (40) years. The annual rental payable under the Ground Sublease will be equal to the Net Available Cash Flow. Net Available Cash Flow will equal the amount transferred from time to time to the Surplus Fund created under the Trust Indenture (the “Indenture”) dated as of [Month] 1, 2014, between the Issuer and the Trustee. See “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE INDENTURE -- Revenue Fund” in APPENDIX “E” hereto for a more detailed description of the amounts to be deposited, from time to time, in the Surplus Fund. [The Borrower will agree in the Ground Sublease, among other things, to acquire, construct, furnish, and equip the Series 2014 Project in accordance with the plans and specifications therefor on file with the Trustee to cause the Developer and/or General Contractor to maintain insurance against certain risks, to deliver performance and labor and material payment bonds with respect to construction contracts, and to maintain the Series 2014 Project in good repair and operating condition.]

Security for the Bondholders

To secure the Borrower’s obligations to the Issuer under Loan Agreement and the Series 2014 Notes, the Borrower will execute and deliver to the Trustee (i) a Leasehold Mortgage and Assignment of Rents and Subleases (the “Leasehold Mortgage”) dated as of [Month] 1, 2014, pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first mortgage lien on its interest in the real property included in the Series 2014 Project and any additional project acquired, constructed,
furnished, and equipped with the proceeds of additional bonds issued under the Indenture (collectively, the “Project”) and the Property and will grant to the Trustee a first priority security interest in the leases, rents, issues, profits, revenues, income, receipts, moneys, royalties, rights, and benefits of and from the Project. (ii) a Security Agreement (the “Security Agreement”) dated as of [Month] 1, 2014, pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in the Pledged Revenues (as defined in Exhibit “B”), the accounts, documents, chattel paper, instruments, and general intangibles arising in any manner from the Borrower’s ownership or operation of the Project, the inventory located at the Project, and the equipment, furnishings, and other tangible personal property included in the Project, and (iii) an Assignment of Contracts and Agreements (the “Assignment of Contracts and Agreements”) dated as of [Month] 1, 2014, pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in its rights under the Development Agreement (the “Development Agreement”) between the Borrower and the Developer pursuant to which the Developer [will agree/has agreed] to develop the Series 2014 Project and all other contracts and agreements relating to the development, design, or construction of the Series 2014 Project. As security for its obligations under the Series 2014 Bonds, the Issuer will enter into the Indenture with the Trustee. Pursuant to the Indenture, the Issuer will grant to the Trustee a first priority security interest in the Loan Agreement, the Series 2014 Notes, all property described therein, all amounts to be received thereunder, and all property to be held thereunder (except for Unassigned Rights hereinafter defined). The sum of $________________, equal to the Debt Service Reserve Requirement (hereinafter defined) for the Series 2014A Bonds, will be deposited in the Debt Service Reserve Fund created under the Indenture (the “Debt Service Reserve Fund”) and will be used to pay the Debt Service Payments on the Series 2014A Bonds if insufficient funds are on deposit with the Trustee on the date such payments are due. The moneys in the Debt Service Reserve Fund will not be available to pay Debt Service Payments on the Series 2014B Bonds. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2014 BONDS” and “CERTAIN BONDBACKERS’ RISKS” herein.

Market Study
Attached hereto as APPENDIX “B” is a market study (the “Market Study”) dated [April] ___, 2014, prepared by Alvarez & Marsal on behalf of the Borrower. The conclusions and findings contained in the Market Study are based upon assumptions about the outcome of future events. There can be no assurance that such projections will approximate actual results, and there is no assurance that such projections will be achieved. See “MARKET STUDY” and “CERTAIN BONDBACKERS’ RISKS - ACTUAL RESULTS MAY DIFFER FROM MARKET STUDY AND CASH FLOW FORECAST” and “- FORWARD LOOKING STATEMENTS” herein. For discussion of the assumptions and methodology used in arriving at the conclusions and findings, see the Market Study which should be read in its entirety. Alvarez & Marsal has consented to the use of the Market Study in this Official Statement.

Cash Flow Forecast
Attached hereto as APPENDIX “C” is a Cash Flow Forecast (the “Cash Flow Forecast”) relating to the Series 2014 Project’s ability to generate revenues from the operations sufficient to pay principal of and interest on the Series 2014 Bonds for each of the years ending [June 30], [2016] through [2025]. The Cash Flow Forecast has been prepared by the Developer based on operating budgets formulated by the Manager. None of the Issuer, the University, or the Borrower makes any representations
with respect to the Cash Flow Forecast. See “CASH FLOW FORECAST” and “CERTAIN BONDBORDELS’ RISKS - Actual Results May Differ from Market Study and Cash Flow Forecast” and “- Forward Looking Statements” herein.

Certain Bondholders’ Risks

There are certain considerations relating to an investment in the Series 2014 Bonds that are set forth in the sections of this Official Statement, including the heading “CERTAIN BONDBORDELS’ RISKS,” and that should be carefully reviewed and considered by prospective purchasers of the Series 2014 Bonds. These considerations include the facts that (i) the Borrower’s ability to generate revenues and make timely payment under the Loan Agreement, failure to do which may result in the Series 2014 Bonds’ not being paid or being paid before maturity or applicable redemption dates and which may result in forfeiture of any redemption premiums, may be adversely affected by a wide variety of future events and conditions including a decline in the enrollment of the University, increased competition from other schools, loss of accreditation, failure to meet federal guidelines or some other event that results in students being ineligible for federal financial aid, and cost overruns in connection with the Series 2014 Project or other capital improvements, (ii) the Series 2014 Bonds constitute limited obligations of the Issuer and the only significant source of payment therefor are the deposits received by the Trustee pursuant to the Loan Agreement, (iii) other than its ownership of the Series 2014 Project, the Borrower has no substantial revenues or assets, (iv) the Series 2014 Project must meet certain occupancy levels and rental rates if the Borrower is to generate the revenues necessary to meet the obligations of the Borrower under the Loan Agreement, (v) the Series 2014 Project will be constructed to serve as a student housing facility and the special use nature of the Series 2014 Project and the facts that the Series 2014 Project is located on the campus of the University and the interest of the Borrower serving as collateral is in the nature of a leasehold interest and subject to the terms of the Ground Sublease may curtail its value as collateral, (vi) the Borrower will lease the Property from the University pursuant to the Ground Sublease, and its obligation to comply with the terms of the Ground Sublease and to relinquish any claim to the Series 2014 Project upon the termination of the Ground Sublease will likely render the Series 2014 Project less valuable to prospective purchasers upon foreclosure, (vii) the occupancy rates of the Series 2014 Project may be adversely affected by regional and local economic conditions, competitive conditions, local laws and regulations, and general real estate market conditions, including the supply, proximity, and amenities of apartment communities in the area, (viii) there can be no assurance that any current or future claims will be covered by or will not exceed applicable insurance coverage, (ix) the student housing industry is highly competitive, and such competition may inhibit the extent to which the Borrower will be able to increase rates and charges and maintain or increase occupancy of the Series 2014 Project, (x) the housing industry is significantly regulated by the federal and local government and such regulations could increase the operating expenses of the Series 2014 Project or could otherwise have a material adverse effect on the operation thereof, (xi) there are risks associated with the construction of the Series 2014 Project, (xii) the Series 2014 Project is located in southeast Florida and in Miami-Dade County, an area that is approximately one (1) mile inland from the Atlantic Ocean and generally susceptible to hurricanes, severe weather disturbances, and floods, and the occurrence of such natural events could impair the Borrower’s ability to generate revenues and make timely payment under the Loan Agreement, (xiii) future clean-up costs with respect to the Series 2014 Project could be imposed under environmental statutes and liens.
relating thereto may adversely affect the security for the owners of the Series 2014 Bonds, (xiv) certain statutory provisions and interests and claims of others may impair the security interest of the Trustee in the revenues derived by the Borrower from its ownership or operation of the Series 2014 Project, (xv) judicial actions may impair the remedies available to the Trustee and the owners of the Series 2014 Bonds under the Bond Documents providing security for the Series 2014 Bonds, (xvi) interest on the Series 2014A Bonds could, in certain events, become includable in the gross income of the owners thereof and owners of the Series 2014A Bonds would be subject to adverse federal tax consequences, (xvii) there can be no assurance that there will be a secondary market for the Series 2014 Bonds, (xviii) the Market Study and the Cash Flow Forecast are based on assumptions concerning future events, circumstances, and transactions, and it is likely that actual results will be different from the results forecast in the Market Study and the Cash Flow Forecast and those differences may be material and adverse, (xix) this Official Statement, including but not limited to the information contained in the Market Study and the Cash Flow Forecast, contains statements relating to future results that are “forward looking statements,” as defined in the Private Securities Litigation Reform Act of 1995, and such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward looking statements, (xx) Additional Bonds (hereinafter defined) payable from the Trust Estate (hereinafter defined) on a parity with the Series 2014 Bonds may in the future dilute the security for the Series 2014 Bonds, (xxi) a change in the Corporation’s or the University’s status as a 501(c)(3) organization could cause interest on the Series 2014A Bonds to become includable in the gross income of the owners thereof, (xxii) failure by the Issuer or the Borrower to comply with certain provisions of the Code and certain covenants contained in the Indenture, the Loan Agreement, and the Tax Agreement (hereinafter defined) could result in interest on the Series 2014A Bonds becoming includable in gross income for federal income tax purposes, (xxiii) the Series 2014 Bonds will initially be issued in book entry form through The Depository Trust Company (“DTC”), and unless and until definitive securities are issued, beneficial owners of such Series 2014 Bonds will only be able to exercise the rights of registered owners indirectly through DTC and its participating organizations, and (xxiv) the Internal Revenue Service has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Internal Revenue Service, interest on such tax-exempt obligations is includible in the gross income of the owners thereof. See “CERTAIN BONDHOLDERS’ RISKS” herein. The foregoing list of considerations is not intended to be exhaustive, but includes certain major factors that should be considered by prospective purchasers along with other factors set forth elsewhere in this Official Statement, including the Appendices hereto.

**Tax Status of Interest**

In the opinion of Bryant Miller Olive P.A. and Manuel Alonso-Poch, P.A., Co-Bond Counsel, assuming continuing compliance by the Issuer and the Borrower with certain covenants, under existing statutes, regulations and judicial decisions, the interest on the Series 2014A Bonds is excluded from gross income for federal income tax purposes of the holders thereof and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest on the Series 2014A Bonds shall be taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax on corporations. **INTEREST ON THE SERIES 2014B BONDS WILL NOT BE EXCLUDED FROM GROSS INCOME FOR FEDERAL INCOME**
TAX PURPOSES. See “TAX MATTERS” herein for a description of certain other tax consequences to holders of the Series 2014 Bonds.

Continuing Disclosure
The Borrower will agree to provide such information as may be required by the provisions of Rule 15c2-12 (“Rule 15c2-12”) promulgated by the Securities and Exchange Commission, and neither the University nor the Issuer will undertake any responsibility with respect to continuing disclosure under Rule 15c2-12.

Book-Entry-Only
The Series 2014 Bonds will be delivered in book-entry form through The Depository Trust Company. Bondholders will not receive a certificate representing their Series 2014 Bonds except in very limited circumstances. See “BOOK-ENTRY SYSTEM” in APPENDIX “F” hereto.

General/Additional Information
This Official Statement speaks only as of its date, and the information contained herein is subject to change. Copies of the Official Statement in final form will be provided to the Municipal Securities Rulemaking Board for availability to the public on its Electronic Municipal Market Access web site known as EMMA. Copies of the Official Statement and other relevant documents and information regarding the documents are available upon request from the Underwriter prior to the issuance and delivery of the Series 2014 Bonds and from the Trustee after the issuance and delivery of the Series 2014 Bonds. The Official Statement, including the cover page and the attached Appendices, contains specific information relating to the Series 2014 Bonds, the Issuer, and the Borrower and other information pertinent to the bonds described herein.
OFFICIAL STATEMENT

$[Amount of A Bonds]†
MIAMI-DADE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
INDUSTRIAL DEVELOPMENT REVENUE BONDS
(NCCD - BISCAYNE PROPERTIES LLC PROJECT)
SERIES 2014A

$[Amount of B Bonds]†
MIAMI-DADE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(NCCD - BISCAYNE PROPERTIES LLC PROJECT)
SERIES 2014B

INTRODUCTORY STATEMENT

This Official Statement, including the cover page and the Appendices hereto, furnishes certain information in connection with the sale by the Miami-Dade County Industrial Development Authority (the "Issuer") of $[Amount of A Bonds]† in aggregate principal amount of its Industrial Development Revenue Bonds (NCCD - Biscayne Properties LLC Project) Series 2014A (the "Series 2014A Bonds") to be issued by the Issuer pursuant to a Trust Indenture (the "Indenture") dated as of [Month] 1, 2014, between the Issuer and Regions Bank, as Trustee (the "Trustee") for the purpose of providing funds (i) to finance the cost of acquiring, constructing, furnishing, and equipping a [618]-bed student housing facility, including the buildings, furniture, fixtures, and equipment therefor, (the "Series 2014 Project") to be located on the Biscayne Bay Campus (the "BBC") of Florida International University (the "University") in the City of North Miami, Florida, and in Miami-Dade County, Florida (the "County"), (ii) to pay the costs of marketing the Series 2014 Project, (iii) to provide working capital for the Series 2014 Project, (iii/iv) to fund interest on the Series 2014A Bonds during the construction of the Series 2014 Project, (iii/iv) to fund the Debt Service Reserve Fund for the Series 2014A Bonds, and (iii/iv) to pay a portion of the costs of issuing the Series 2014A Bonds, and $[Amount of B Bonds]† in aggregate principal amount of its Taxable Industrial Development Revenue Bonds (NCCD - Biscayne Properties LLC Project) Series 2014B (the "Series 2014B Bonds") and, together with the Series 2014A Bonds, the "Series 2014 Bonds") to be issued by the Issuer pursuant to the Indenture for the purpose of providing funds (i) to finance a minor portion of the cost of acquiring, constructing, furnishing, and equipping the Series 2014 Project, (ii) to pay the remaining portion of the costs of issuing the Series 2014A Bonds, (iii/iv) to fund interest on the Series 2014B Bonds during the construction of the Series 2014 Project, and (iii/iv) to pay the costs of issuing the Series 2014B Bonds. All capitalized terms used in this Official Statement and not otherwise defined herein shall have the meanings ascribed thereto in APPENDIX "D" hereto. This Official Statement is deemed to be final as of its date, within the meaning of Rule 15c2-12(b)(1) of the Securities Exchange Commission (the "SEC"), except for the omission of the offering prices, interest rates, selling compensation, aggregate principal amount, and delivery date.

The site on which the Series 2014 Project will be constructed (the "Property") will be subleased to NCCD - Biscayne Properties LLC (the "Borrower"), a single member limited liability company duly organized, existing, and in good standing under the laws of the State of Tennessee, pursuant to a Sublease Agreement (the "Ground Sublease") dated as of [Month] 1, 2014, between the Board of Trustees of the University, as landlord (the "Ground Sublessor"), and the Borrower, as tenant. The Issuer will lend the proceeds of the Series 2014 Bonds to the Borrower pursuant to a Loan Agreement (the "Loan Agreement") dated as of [Month] 1, 2014, between the Issuer and the Borrower. The Borrower will be obligated pursuant to the Loan Agreement to pay to the Issuer such loan payments as will always be sufficient to pay the principal and redemption price of, and premium, if any, interest on (collectively, the "Debt Service Payments"), the Series 2014 Bonds as the same mature and become due, and under the Loan Agreement, it will be the obligation of the Borrower to pay all expenses of operating and maintaining the Project in good repair, to keep it properly insured, and to pay all taxes, assessments, and other charges levied or assessed against or with respect to the Project. To evidence the obligation to make loan payments sufficient to pay the Debt Service Payments on the Series 2014A Bonds, the Borrower will execute and deliver to the Issuer its promissory note (the "Series 2014A Note") in the principal amount of $[Amount of A Bonds]† dated as of

† Preliminary, Subject to Change
[Month] 1, 2014, and to evidence the obligation to make loan payments sufficient to pay the Debt Service Payments on the Series 2014B Bonds, the Borrower will execute and deliver to the Issuer its promissory note (the “Series 2014B Note” and together with the Series 2014A Note, the “Series 2014 Notes”) in the principal amount of $[Amount of B Bonds]† dated as of [Month] 1, 2014, and the Issuer will endorse the Series 2014 Notes to the order of the Trustee.

The obligations of the Borrower to the Issuer under Loan Agreement and the Series 2014 Notes will be secured by (i) a Leasehold Mortgage and Assignment of Rents and Subleases (the “Leasehold Mortgage”) dated as of [Month] 1, 2014, pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first mortgage lien on its interest in the real property included in the Project and the Property and will grant to the Trustee a first priority security interest in the leases, rents, issues, profits, revenues, income, receipts, moneys, royalties, rights, and benefits of and from the Project, (ii) a Security Agreement (the “Security Agreement”) dated as of [Month] 1, 2014, pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in the Pledged Revenues, the accounts, documents, chattel paper, instruments, and general intangibles arising in any manner from the Borrower’s ownership or operation of the Project, the Inventory, and the Equipment, and (iii) an Assignment of Contracts and Agreements (the “Assignment of Contracts and Agreements”) dated as of [Month] 1, 2014, pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in its rights under the Development Agreement (the “Development Agreement”) between the Borrower and Servitas, LLC (the “Developer”) pursuant to which the Developer [will agree/has agreed] to develop the Series 2014 Project and all other contracts and agreements relating to the development, design, or construction of the Series 2014 Project.

The Issuer, pursuant to the Indenture, will grant to the Trustee a first priority security interest in its right, title, and interest in and to the Loan Agreement (except for Unassigned Rights as hereinafter defined) and the Series 2014 Notes to the Trustee which, on behalf of the owners of the Series 2014 Bonds, will exercise all of the Issuer’s rights thereunder (except for Unassigned Rights). See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2014 BONDS” herein.

The obligations of the Borrower under the Ground Sublease, the Leasehold Mortgage, the Security Agreement, and the Assignment of Contracts and Agreements will be non-recourse to the Borrower, and any judgment in any action or proceeding under such documents will be enforceable against the Borrower only to the extent of the Borrower’s interest in the Project and the other Security. See “NON-RECURSCE OBLIGATION OF THE BORROWER” herein.

The University will enter into an Operating Agreement (the “Operating Agreement”) dated as of [Month] 1, 2014, with the Borrower pursuant to which it will agree, inter alia, to take no action, or assist others in taking any action on its behalf, that materially adversely affects the marketability of the Series 2014 Project or the Series 2014 Project’s ability to maintain a Fixed Charges Coverage Ratio (as defined in the Loan Agreement) of at least 1.20. See “THE OPERATING AGREEMENT” and “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2014 BONDS - RATE COVENANT” herein.

This Official Statement and the Appendices hereto contain brief descriptions of, among other matters, the Issuer, the Borrower, the University, the Series 2014 Project, the Developer, the Series 2014 Bonds, the Loan Agreement, the Ground Sublease, and the Indenture. Such descriptions and information do not purport to be comprehensive or definitive. All references herein to the Ground Sublease, the Loan Agreement, and the Indenture are qualified in their entirety by reference to such documents, and references herein to the Series 2014 Bonds are qualified in their entirety to the forms thereof included in the Indenture.

† Preliminary, Subject to Change
ESTIMATED SOURCES AND USES OF FUNDS

The schedule below contains the estimated sources and uses of funds resulting from the sale of the Series 2014 Bonds (excluding accrued interest, if any):

<table>
<thead>
<tr>
<th>SOURCES OF FUNDS:</th>
<th>Series 2014A</th>
<th>Series 2014B</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Par Amount of Series 2014 Bonds</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plus: Original Issue Premium</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less: Original Issue Discount</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less: Underwriter’s Discount</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL SOURCES OF FUNDS**

<table>
<thead>
<tr>
<th>USES OF FUNDS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Deposit to Construction Fund</td>
<td></td>
</tr>
<tr>
<td>Deposit to Capitalized Interest Account</td>
<td></td>
</tr>
<tr>
<td>Deposit to Debt Service Reserve Fund (†)</td>
<td></td>
</tr>
<tr>
<td>Additional Issuance Costs</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL USES OF FUNDS**


This section will be completed in the final Official Statement.

THE ISSUER

The Issuer is an Industrial Development Authority created pursuant to the Act.

The Issuer is authorized by the Act to issue the Series 2014 Bonds to provide funds to lend to the Borrower to finance the Series 2014 Project. The Act provides that bonds issued by an Industrial Development Authority are not and cannot be a general obligation of the authority or a charge upon any of its property or assets other than that specifically pledged for the benefit of such bonds. Reference is hereby made to the Act for a complete description of the powers of an Industrial Development Authority.


The Issuer has not participated in the preparation of this Official Statement and makes no representation with respect to the accuracy or completeness of any of the material contained in this Official Statement other than in this heading entitled “THE ISSUER” and under the subheading “LITIGATION - The Issuer.” The Issuer is not responsible for providing any purchaser of the Series 2014 Bonds with any information relating to the Series 2014 Bonds or any of the parties or transactions referred to in this Official Statement or for the accuracy or completeness of any such information obtained by any purchaser.

The Issuer, in the case of the Series 2014 Bonds, is merely a conduit for payment, in that the Series 2014 Bonds do not constitute a general debt, liability, or obligation of the Issuer, but are instead secured by and payable solely from payments of the Borrower under the Loan Agreement and by other security discussed herein. The Series 2014 Bonds are not being offered on the basis of the financial strength of the Issuer. The Issuer believes, therefore, that disclosure of any default related to a financing not involving the Borrower or any person or entity related to the Borrower would not be material to a reasonable investor. The Issuer has not taken affirmative steps to contact the various trustees of other conduit bond issues of the Issuer to determine the extent of prior defaults.
THE SERIES 2014 PROJECT

The Series 2014 Project will consist of (i) a two hundred fifty (250) unit student housing facility, contained in a single building, comprised of eighty (80) four-bedroom, two-bathroom units, one hundred twenty-eight (128) two-bedroom, two-bathroom units, forty (40) studio units, and two (2) one-bedroom, one-bathroom staff units aggregating 296,910 gross square feet and (ii) a three hundred nine (309) space parking lot. The Series 2014 Project will be managed by the Manager. See “THE MANAGER” herein and “THE SERIES 2014 PROJECT” in APPENDIX “A” hereto. The Property will be subleased to the Borrower pursuant to the Ground Sublease.

THE BORROWER

General

The Borrower is a single member limited liability company duly organized and existing under the laws of the State of Tennessee. The Borrower was formed for the purpose of financing, acquiring, constructing, furnishing, equipping, and operating the Series 2014 Project and is not expected to have any assets other than the Series 2014 Project. National Campus and Community Development Corporation (the “Corporation”) is the sole member of the Borrower.

The Corporation

The Corporation is a non-profit corporation formed in 2006 under the laws of the State of Texas. The Corporation is also an organization that is exempt from federal income tax pursuant to §501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”). It was organized and is operated to engage in a broad range of charitable and educational activities that include promoting healthy communities, promoting education, and lessening the burdens of government. The Corporation will have no obligation with respect to the Series 2014 Bonds or under the Ground Sublease, the Loan Agreement, the Leasehold Mortgage, the Security Agreement, or the Indenture.

Board of Directors of the Corporation

The Corporation is governed by a Board of Directors. The following individuals constitute the Board of Directors of the Corporation:

<table>
<thead>
<tr>
<th>Name</th>
<th>Business Affiliation</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charles G. Eden</td>
<td>President, National Campus and Community Development Corporation</td>
<td>December, 2020</td>
</tr>
<tr>
<td>Eric Markland, CPA</td>
<td>Chief Operating Officer, INTERA Inc.</td>
<td>December, 2018</td>
</tr>
<tr>
<td>James E. (Jeb) Brown</td>
<td>Attorney, Houston, Texas</td>
<td>December, 2017</td>
</tr>
</tbody>
</table>

NON-RECOURSE OBLIGATION OF THE BORROWER

Neither the Issuer nor the Trustee will be permitted to enforce the liability and obligations of the Borrower under the Loan Agreement or any of the other Bond Documents in any action or proceeding wherein any money or deficiency judgment shall be sought against the Borrower, except that the Issuer or the Trustee may bring a foreclosure action, action for specific performance, or other appropriate action or proceeding to enable the Issuer or the Trustee to enforce the Borrower’s obligations under the Bond Documents or, in the case of the Trustee, to enforce and realize upon the Leasehold Mortgage, the Security Agreement, and the Assignment of Contracts and Agreements and the Borrower’s interest in the property pledged under the Leasehold Mortgage and the Security Agreement (collectively, the “Security”); provided, however, that any judgment in any such action or proceeding shall be enforceable against the Borrower only to the extent of the Borrower’s interest in the Project and the other Security. The Issuer and the Trustee will agree that they will not sue for, seek, or demand any money from, or deficiency judgment against, the Borrower in such action or proceeding, under or by reason of or in connection with the Loan Agreement or any of the other Bond Documents. This agreement effectively means that neither the Issuer nor the Trustee will be able to bring any claim against the Borrower that will require it to utilize any of its funds or property other than those specifically pledged to the payment of the Series 2014 Bonds. Because of the limited
nature of the Borrower’s obligation, no information is being provided regarding the financial assets or business and affairs of the Borrower.

THE SERIES 2014 BONDS

General Description

The Series 2014A Bonds will be issued in the aggregate principal amount of $[Amount of A Bonds]%†, will be dated the Closing Date, and will mature on July 1 of the years [2016]%† through [2024]%†, inclusive, 2029%†, 2034%†, and 2044%†, subject to mandatory redemption provisions. The Series 2014B Bonds will be issued in the aggregate principal amount of $[Amount of B Bonds]%†, will be dated the Closing Date, and will mature on July 1 of the year[s] 201___%.†, subject to mandatory redemption provisions.] The Series 2014A Bonds and the Series 2014B Bonds will be issued on a parity basis and, except as to benefit of the Debt Service Reserve Fund, tax-exempt status, principal amounts, and maturities, have substantially the same terms. The Series 2014 Bonds will bear interest at the rates and will be sold at prices to bear the yields shown on the cover page of this Official Statement. Interest on the Series 2014 Bonds will be payable on January 1, 2015, and semi-annually thereafter on January 1 and July 1 (collectively, the “Interest Payment Dates” and each, an “Interest Payment Date”) until paid, in an amount equal to the interest accrued from the Interest Payment Date immediately preceding the date of registration and authentication of each Series 2014 Bond, unless such Series 2014 Bond is registered and authenticated as of an Interest Payment Date, in which event, it will bear interest from said Interest Payment Date, or unless such Series 2014 Bond is registered and authenticated prior to December 15, 2014, in which event, such Series 2014 Bond will bear interest from the Closing Date, or unless, as shown by the records of the Trustee, interest on the Series 2014 Bonds shall be in default, in which event such Series 2014 Bond will bear interest from the date to which interest shall have been paid in full on such Series 2014 Bond, or unless no interest shall have been paid on the Series 2014 Bonds, in which event such Series 2014 Bond will bear interest from the Closing Date.

Interest on the Series 2014 Bonds will be computed on the basis of a 360-day year consisting of twelve 30-day months. The Series 2014 Bonds will be issued as fully registered bonds without coupons in the denominations of Five Thousand Dollars ($5,000) and any multiple thereof (“Authorized Denominations”).

The Series 2014 Bonds will be initially registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York (“DTC”). DTC will act as securities depository for the Series 2014 Bonds and purchasers of the Series 2014 Bonds will not receive certificates evidencing their ownership interests therein. So long as Cede & Co. is the registered owner of the Series 2014 Bonds as nominee of DTC, references herein to the Owners of the Series 2014 Bonds shall mean Cede & Co. and shall not mean the beneficial owners of the Series 2014 Bonds. So long as Cede & Co. is the registered owner of the Series 2014 Bonds, the Debt Service Payments on the Series 2014 Bonds will be made to Cede & Co., as nominee for DTC, which will in turn remit such Debt Service Payments to the Direct Participants and Indirect Participants for subsequent disbursement to the beneficial owners. See “BOOK-ENTRY SYSTEM” in APPENDIX “F” attached hereto.

Registration Provisions; Exchange; Replacement

The Series 2014 Bonds will be and will have all the qualities and incidents of negotiable instruments under the laws of the State, and the Bondholders, in accepting any of the Series 2014 Bonds, will be conclusively deemed to have agreed that the Series 2014 Bonds will be and have all of said qualities and incidents of negotiable instruments.

The Issuer will be required to cause the Bond Register to be kept by the Trustee which will be appointed the Issuer’s bond registrar and agent for the transfer and exchange of the Series 2014 Bonds and as such, will be required to maintain the Bond Register. The Trustee, for and on behalf of the Issuer, will be required to keep the Bond Register in which will be recorded any and all transfers of ownership of Series 2014 Bonds. No Series 2014 Bonds will be registered to bearer. The Bond Register will be required at all times to comply with all requirements of §149(a) of the Code and all Regulations from time to time promulgated thereunder as may be applicable to the Bond Register. Any Series 2014 Bond may be transferred upon the Bond Register upon surrender thereof at the Office of the Trustee by the Owner in person or by his, her, or its attorney-in-fact or legal representative duly authorized in writing together with a written instrument of transfer in form and with guarantee of signature satisfactory to the Trustee duly executed by the Owner or his, her, or its attorney-in-fact or legal representative duly

† Preliminary, Subject to Change
authorized in writing and upon payment by such Owner of a sum sufficient to cover any governmental tax, fee, or charge required to be paid as provided in the Indenture. Upon any such registration of transfer, the Issuer will be required to cause to be executed and the Trustee will be required to authenticate and deliver in the name of the transferee a new fully registered Series 2014 Bond or Series 2014 Bonds of like tenor; in Authorized Denominations; of the same Subseries, maturity or maturities, and interest rate or rates; and in the same aggregate principal amount, and the Trustee will be required to enter the transfer of ownership in the Bond Register. No transfer of any Series 2014 Bond will be effective until entered on the Bond Register. Notwithstanding the foregoing, for so long as Bonds of a Series or Subseries shall be held under the Book-Entry System, transfers of beneficial ownership will be effected pursuant to rules and procedures established by the Securities Depository.

Any Series 2014 Bonds, upon surrender thereof at the Office of the Trustee together with a written instrument of transfer in form and with guarantee of signature satisfactory to the Trustee, duly executed by the Owner or his, her, or its attorney-in-fact or legal representative duly authorized in writing, may be exchanged, at the option of the Owner thereof; and upon payment by such Owner of a sum sufficient to cover any shipping charge, insurance premium, governmental tax, fee, or charge required to be paid as provided in the Indenture, when not prohibited by law, for an equal aggregate principal amount of Series 2014 Bonds of the same Subseries, interest rate, designation, and maturity or maturities and in any other Authorized Denominations and registered in the name of the same Owner. The Issuer will cause to be executed and the Trustee will authenticate and deliver Series 2014 Bonds that the Owner making the exchange is entitled to receive, bearing numbers not then outstanding, and the Trustee, as bond registrar, shall enter the exchange in the Bond Register.

Except as provided in the Indenture with respect to exchanges for certain temporary Series 2014 Bonds, the cost of printing, lithographing, and engraving of all Series 2014 Bonds will be deemed to be an Ordinary Expense of the Trustee, and there will be no charge to any Owner for the registration, exchange, or transfer of Series 2014 Bonds, although in each case, the Trustee may require the payment by the Owner requesting exchange or transfer of any tax, fee, or other governmental charge required to be paid with respect thereto and may require that such amount be paid before any such new Series 2014 Bond shall be delivered.

The Issuer and the Trustee may deem and treat the Owner of any Series 2014 Bond as the absolute owner of such Series 2014 Bond for the purpose of receiving any payment on such Series 2014 Bond and for all other purposes of the Indenture and the Loan Agreement, whether such Series 2014 Bond shall be overdue or not, and neither the Issuer nor the Trustee will be affected by any notice to the contrary. Payment of or on account of the Debt Service Payments on any Series 2014 Bond will be made to or upon the written order of the applicable Owner or his, her, or its attorney-in-fact or legal representative duly authorized in writing. All such payments will be valid and effectual to satisfaction and discharge the liability upon such Series 2014 Bond to the extent of the sum or sums so paid.

New Series 2014 Bonds delivered upon any transfer or exchange will be valid limited obligations of the Issuer, evidencing the same obligation as the Series 2014 Bonds surrendered, will be secured by the Indenture and will be entitled to all of the security and benefits thereof to the same extent as the Series 2014 Bonds (or portions thereof) surrendered. The Trustee will not be required to transfer or exchange any Series 2014 Bonds (a) after the notice calling such Series 2014 Bond, (or portion thereof) for redemption shall have been given as provided in the Indenture or (b) during the period beginning at the opening of business on the fifteenth (15th) day (whether or not a Business Day) immediately preceding either any Interest Payment Date or any date of selection of Series 2014 Bonds to be redeemed and ending at the close of business on the Interest Payment Date or day on which the applicable notice of redemption is given.

Payment of the Series 2014 Bonds

In the event that the Book-Entry System described in APPENDIX “F” hereto shall be discontinued, principal of and premium, if any, on the Series 2014 Bonds will be payable by check or draft at maturity or at a date set for prior redemption at the Office of the Trustee to the registered owner of each Series 2014 Bond upon presentation and surrender of the Series 2014 Bonds being paid or redeemed. Interest on each Series 2014 Bond will be paid by check or draft mailed to the Person in whose name such Series 2014 Bond is registered, at his, her, or its address as it appears on the Bond Register as of the close of business on the Regular Record Date for such payment, irrespective of any transfer or exchange of the Series 2014 Bond subsequent to a Regular Record Date and prior to such Interest Payment Date, by the Person in whose name the Series 2014 Bond is registered, unless the Issuer shall
be have failed to pay the interest due on such Interest Payment Date. At the option of the Owner of not less than Five Hundred Thousand Dollars ($500,000) in aggregate principal amount outstanding of Bonds of any Subseries issued under and secured by the Indenture, interest will be paid by wire transfer in immediately available funds in accordance with written wire transfer instructions filed with the Trustee prior to the close of business on the Regular Record Date. Interest will continue to be paid in accordance with such instructions, until revoked, except for the final payment of interest upon maturity or redemption prior to maturity which will be paid only upon presentation of the Series 2014 Bond to the Trustee. Notwithstanding anything to the contrary described under this heading, while a Securities Depository or its nominee is the Owner of Bonds of a Series or Subseries, all Debt Service Payments thereon will be paid to the Securities Depository or its nominee in accordance with the Letter of Representations.

Book-Entry System for the Series 2014 Bonds

(a) Notwithstanding any other provision of the Indenture, the Series 2014 Bonds, and, except as described in (d) below, any Additional Bonds will be required to be issued initially in the form of a separate single certificated fully registered Bond for each of the maturities set forth on the inside cover hereof. Except as described in (d) below, upon initial issuance, the ownership of each Bond will be registered in the Bond Register in the name of Cede & Co., as nominee of DTC. Except as described in (d) below, all of the Outstanding Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the Bond Register in the name of the Securities Depository or its nominee, the Issuer, the Borrower, and the Trustee will have no responsibility or obligation to any Participant or to any Person on behalf of which a Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, neither the Issuer, the Borrower, nor the Trustee will have responsibility or obligation with respect to (i) the accuracy of the records of the Securities Depository, its nominee, or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other Person, other than an Owner, or any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other Person, other than an Owner, of any amount with respect to principal of, premium, if any, or interest on, the Bonds. The Issuer, the Borrower, and the Trustee will be permitted to treat and consider the Person in whose name each Bond is registered in the Bond Register as the absolute owner of such Bond for the purpose of payment of principal, premium, and interest with respect to such Bond, for the purpose of giving notices of redemption, for the purpose of obtaining consents, and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee will be required to pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners or their respective attorneys duly authorized in writing, and all such payments will be valid and effective to fully satisfy and discharge the obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No Person other than an Owner will receive a certificated Bond evidencing the obligation to make payments of principal, premium, if any, and interest pursuant to the Indenture. While DTC is the Securities Depository, upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions described herein with respect to Record Dates, the words “Cede & Co.” herein will refer to such new nominee of DTC.

(c) The Trustee will be required to take all action necessary for all representations of the Issuer in the Letter of Representations with respect to the paying agents and the bond registrar, respectively, to at all times to be complied with.

(d) (i) The Securities Depository will be permitted to discontinue providing its services with respect to the Bonds at any time by giving notice to the Issuer, the Borrower, and the Trustee and discharging its responsibilities with respect thereto under applicable law.

(ii) The Trustee, in its sole discretion and without the consent of any other Person, will be permitted to terminate the services of the Securities Depository with respect to the Bonds if the Trustee shall determine that:

(A) the Securities Depository is unable to discharge its responsibilities with respect to the Bonds, or
(B) a continuation of the requirement that all of the Outstanding Bonds be registered in the Bond Register in the name of the Securities Depository or its nominee is not in the best interest of
the Beneficial Owners of the Bonds.

(iii) Upon the termination of the services of a Securities Depository with respect to the Bonds
pursuant by the Securities Depository or upon the discontinuance or termination of the services of a
Securities Depository with respect to the Bonds by the Trustee after which no substitute Securities
Depository willing to undertake the functions of DTC under the Indenture can be found that, in the opinion
of the Trustee, shall be willing and able to undertake such functions upon reasonable and customary terms,
the Trustee will be required to deliver Bond certificates at the expense of the Beneficial Owners of the
Bonds, and the Bonds will no longer be restricted to being registered in the Bond Register in the name of
the Securities Depository or its nominee, but will be permitted to be registered in whatever name or names
Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of th
Indenture.

(e) Notwithstanding any other provision of the Indenture to the contrary, so long as any Bond is registered
in the name of the Securities Depository or its nominee, all payments with respect to principal of, premium, if any,
and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the
manner provided in the Letter of Representations.

See “BOOK-ENTRY SYSTEM” in APPENDIX “F” hereto.

Series 2014 Bonds Are Limited Obligations

THE SERIES 2014 BONDS WILL BE LIMITED AND SPECIAL OBLIGATIONS OF THE
ISSUER AND WILL BE PAYABLE SOLELY AND ONLY FROM THE AMOUNTS PAID TO THE
ISSUER BY THE BORROWER UNDER THE LOAN AGREEMENT AND THE SERIES 2014 NOTES,
FROM UNSPENT PROCEEDS OF THE SERIES 2014 BONDS, AND FROM PROPERTY PLEDGED
UNDER THE LEASEHOLD MORTGAGE AND THE SECURITY AGREEMENT, AND NEITHER THE
SERIES 2014 BONDS NOR THE INTEREST THEREON WILL CONSTITUTE AN INDEBTEDNESS OR
STATE, OR ANY POLITICAL SUBDIVISION OF THE STATE WITHIN THE MEANING OF ANY
STATE CONSTITUTIONAL PROVISION, STATUTORY LIMITATION, OR CHARTER PROVISION
AND WILL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE ISSUER, THE
COUNTY, THE UNIVERSITY, THE STATE, OR ANY POLITICAL SUBDIVISION OF THE STATE OR
A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF ANY OF THEM. THE
ISSUANCE OF THE SERIES 2014 BONDS WILL NOT DIRECTLY OR INDIRECTLY OR
CONTINGENTLY OBLIGATE THE COUNTY, THE STATE, OR ANY POLITICAL SUBDIVISION OF THE STATE TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATSOEVER THEREOF OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE ISSUER HAS NO TAXING POWER AND RECEIVES NO APPROPRIATIONS FROM THE COUNTY, THE STATE, OR ANY OTHER GOVERNMENTAL BODY.

Redemption

Optional Redemption. The Series 2014A Bonds maturing on and after July 1, 2025, will be subject to
redemption prior to maturity at the option of the Issuer upon the written request of the Borrower on and after July 1,
2024, in whole or in part (in amounts not less than $50,000) on any date at a Redemption Price equal to one hundred
percent (100%) of the principal amount thereof being redeemed plus interest accrued to the redemption date.

Any optional redemption of Series 2014A Bonds will be conditioned upon the Trustee’s receipt of funds
sufficient to pay the Redemption Price of the Series 2014A Bonds to be redeemed on or prior to the redemption date.

Mandatory Sinking Fund Redemption. The Series 2014[A] Bonds will be subject to mandatory sinking
fund redemption prior to maturity in part at a Redemption Price equal to one hundred percent (100%) of the
principal amount thereof plus interest accrued thereon to the redemption date, in the following principal amounts
and on the dates set forth below:
### Series 2014A Bonds Maturing on July 1, 2029†

<table>
<thead>
<tr>
<th>July 1 of the Year</th>
<th>Principal Amount</th>
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† Final Maturity

### Series 2014A Bonds Maturing on July 1, 2034†

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† Final Maturity

### Series 2014A Bonds Maturing on July 1, 2044†

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† Final Maturity

### Series 2014B Bonds†

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<th>July 1 of the Year</th>
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† Final Maturity

On or before the forty-fifth (45th) day immediately preceding any July 1 on which Series 2014A Bonds[ or Series 2014B Bonds] are to be retired pursuant to the applicable Sinking Fund Requirement, the Borrower will be permitted to (i) deliver to the Trustee for cancellation, Series 2014A Bonds[ or Series 2014B Bonds or portions thereof] of the applicable maturity in any aggregate principal amount desired or (ii) receive a credit with respect to the applicable Sinking Fund Requirement for any such Series 2014A Bonds[ or Series 2014B Bonds, respectively.]

† Preliminary, Subject to Change
that before said date have been purchased or redeemed (other than through mandatory sinking fund redemption) and cancelled by the Trustee and not theretofore applied as a credit against such Sinking Fund Requirement. Each such Series 2014A Bond[ and each such Series 2014B Bond] so delivered or previously purchased or redeemed and cancelled by the Trustee will be credited by the Trustee at one hundred percent (100%) of the principal amount thereof against the Sinking Fund Requirement for the Series 2014A Bonds[ and/or Series 2014B Bonds] of the applicable maturity on such mandatory sinking fund redemption date, and any excess over such amount will be credited against future applicable Sinking Fund Requirements for such Subseries in such order as may be selected by the Borrower or, in the absence of such selection, in chronological order, and the applicable Sinking Fund Requirements for such Series 2014A Bonds[ and/or Series 2014B Bonds] will be accordingly reduced.

The Issuer, at the request of the Borrower, or the Borrower will be required, on or before the forty-fifth (45th) day immediately preceding each such mandatory sinking fund redemption date for Series 2014 Bonds, to furnish the Trustee with its certificate indicating whether and to what extent the provisions of clauses (i) and (ii) in the preceding paragraph are to be availed of with respect to such Sinking Fund Requirement.

**Extraordinary Optional Redemption.** The Series 2014 Bonds will also be subject to redemption at the option of the Issuer upon the written request of the Borrower, in whole if:

(i) the Series 2014 Project shall have been destroyed or damaged to such an extent that, in the opinion of an Independent Engineer expressed in a certificate filed with the Trustee and the Issuer, (A) the Series 2014 Project cannot reasonably be restored within a period of twelve (12) months to the condition thereof immediately preceding such destruction or damage, or (B) the Borrower will thereby be prevented from carrying on its normal operations thereat for a period of not less than twelve (12) consecutive months, or (C) the cost of restoration or replacement thereof would exceed the Net Proceeds of insurance payable in respect of such destruction or damage; or

(ii) title to, or the temporary use of, a substantial portion of the Series 2014 Project shall have been taken under the exercise of the power of eminent domain by any governmental authority or Person acting under governmental authority to such an extent that, in the opinion of an Independent Engineer expressed in a certificate filed with the Trustee and the Issuer, (A) the Series 2014 Project cannot be reasonably restored or replaced within a period of twelve (12) months to substantially the condition thereof immediately preceding such taking, or (B) the Borrower will thereby be prevented from carrying on its normal operations thereat for a period of not less than twelve (12) consecutive months, or (C) the cost of restoration or replacement thereof would exceed the total amount of compensation for such taking.

The Series 2014 Bonds will also be subject to redemption at the option of the Issuer upon the written request of the Borrower, in part in the event of partial condemnation or destruction of, or partial damage to, the Series 2014 Project, from the Net Proceeds received by the Borrower as a result of such taking, destruction, or damage to the extent such Net Proceeds are not used for the restoration of the Series 2014 Project or for the acquisition of substitute property suitable for the Borrower’s operations at the Series 2014 Project as such operations were conducted prior to such taking, destruction, or damage if the Borrower furnishes to the Trustee and the Issuer (i) a certificate of an Independent Engineer stating (A) that the property forming a part of the Series 2014 Project that was taken, destroyed, or damaged is not essential to the Borrower’s use or occupancy of the Series 2014 Project at substantially the same revenue-producing level as prior to such taking, destruction, or damage, or (B) that the Series 2014 Project has been restored to a condition substantially equivalent to its condition prior to such taking, destruction, or damage, or (C) that the Borrower has acquired suitable land and improvements that are substantially equivalent to the property forming a part of the Series 2014 Project that was taken, destroyed, or damaged, or (ii) a written report of a Financial Consultant filed with the Trustee and the Issuer that the Fixed Charges Coverage Ratio for each of the two (2) Annual Periods following the Annual Period following such taking, destruction, or damage will not be less than the lesser of (a) 1.20 and (b) the average Fixed Charges Coverage Ratio for the two (2) most recent Annual Periods prior to such taking, destruction, or damage for which audited financial statements are available.

If the Series 2014 Bonds shall be called for redemption upon the occurrence of any of the events described in the two immediately preceding paragraphs, the Series 2014 Bonds will be permitted to be redeemed on any date for which the requisite notice of redemption can be given within one hundred eighty (180) days of such event at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof plus interest accrued to the redemption date.

- 10 -
Subject to the provisions of the Indenture described below under the subheading “Selection of Series 2014 Bonds to be Redeemed,” “DTC Procedures,” and “Redemption of a Portion of a Series 2014 Bond,” any redemption of less than all of the Series 2014 Bonds pursuant to the provisions of the Indenture described under this subheading will be applied against the Subseries on a pro rata basis.

Other Redemptions at Par. The Series 2014A Bonds will also be subject to redemption prior to maturity in whole or in part at any time and as expeditiously as reasonably possible upon the deposit of moneys in the Redemption Fund required by the Loan Agreement or the Indenture as set forth below in a principal amount equal to such deposit (less any amount by which such deposit exceeds an Authorized Denomination) and at a Redemption Price equal to one hundred percent (100%) of such principal amount plus interest accrued thereon to the redemption date:

(i) any net proceeds of title insurance on the Series 2014 Project to the extent such net proceeds are not used to acquire or construct replacement or substitute property; or

(ii) any net proceeds of a sale or disposition of any inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary Equipment that is part of the Series 2014 Project to the extent such net proceeds are not used to acquire replacement equipment or related property having equal or greater value or utility (but not necessarily having the same function) in the operation of the Series 2014 Project for the purpose for which it is intended; or

(iii) any money consideration received by the Trustee pursuant to the provisions of the Leasehold Mortgage in connection with the release of, or the subordination of the lien of the Leasehold Mortgage with respect to, any portion of the Series 2014 Project (A) that the Ground Sublessor proposes to convey fee title to a public utility or public body in order that utility services or public services may be provided to the Project or (B) with respect to which the Borrower requests the Trustee subordinate the lien of the Leasehold Mortgage to rights granted to a public utility or public body in order that utility services or public services may be provided to the Project pursuant to the provisions of the Leasehold Mortgage; or

(iv) the release price for any unimproved portion of the Series 2014 Project released from the lien of the Leasehold Mortgage determined and paid to the Trustee pursuant to the provisions of the Leasehold Mortgage; or

(v) any unspent proceeds of the Series 2014 Bonds and investment earnings remaining in the Construction Fund created under the Indenture on the date of completion of the acquisition, construction, furnishing, and equipping of the Series 2014 Project, as that date shall be certified to the Trustee by the Borrower.

Selection of Series 2014 Bonds to be Redeemed. If the Series 2014 Bonds shall be called for redemption (other than through mandatory sinking fund redemption), the Borrower will be permitted to select the maturity of Series 2014 Bonds to be redeemed. Subject to the provisions described below under the heading “Redemption of a Portion of a Series 2014 Bond,” if less than all of the Series 2014 Bonds of any maturity shall be called for redemption (other than through mandatory sinking fund redemption), the Trustee will select the particular Series 2014 Bonds of such Series, Subseries, or maturity to be redeemed by lot. Notwithstanding the foregoing, but subject to the terms of the Indenture described in the final sentence of this paragraph, the Borrower will have the right to designate the Sinking Fund Requirement to which such redemption shall be credited. Notwithstanding anything contained in the Indenture to the contrary, if Series 2014 Bonds are to be redeemed prior to their maturity pursuant to the provisions of the Indenture (other than through mandatory sinking fund redemption), Series 2014B Bonds will be redeemed prior to any Series 2014A Bonds.

DTC Procedures. Investors should note that while DTC is the Owner of the Series 2014 Bonds, partial redemptions of the Series 2014 Bonds will be determined in accordance with DTC’s procedures. The Issuer intends that redemption allocations made by DTC, DTC Participants, or such other intermediaries that may exist between the Issuer and the Beneficial Owners be made in accordance with the method of selection of Series 2014 Bonds for a partial redemption described herein. However, the selection of the Series 2014 Bonds for redemption in DTC’s book-entry only system is subject to DTC’s practices and procedures as in effect at the time of any such partial redemption. The Issuer can provide no assurance that DTC, the DTC Participants, or any other intermediaries will
allocate redemptions among Beneficial Owners in accordance with the method of selection of Series 2014 Bonds for a partial redemption as described above.

**Notice of Redemption.** In the event any Series 2014 Bonds are called for redemption as aforesaid, notice thereof identifying the Series 2014 Bonds or portions thereof to be redeemed will be given by the Trustee by mailing a copy of the redemption notice by first class mail (postage prepaid) not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption to the Owner of each Series 2014 Bond to be redeemed in whole or in part at the address shown on the Bond Register at the close of business on the fifth (5th) day preceding the date of mailing; provided, however, that failure to give such notice by mailing to any Owner of Series 2014 Bonds or any defect therein will not affect the validity of any proceedings for the redemption of any other Series 2014 Bonds for which notice shall have been properly given. Each notice will be required to specify the CUSIP numbers of the Series 2014 Bonds of each Series or Subseries being called; the numbers of the Series 2014 Bonds of each Series or Subseries being called; if less than all of the Series 2014 Bonds of any Subseries are being called, the redemption date; the Redemption Price; and the place or places where amounts due upon such redemption will be payable. Such notice will be required further to state that payment of the applicable Redemption Price will be made upon presentation and surrender of the Series 2014 Bonds to be redeemed and that on the redemption date, the Redemption Price will become due and payable upon each Series 2014 Bond to be redeemed and that interest thereon will cease to accrue on and after such date, provided, collected funds for the redemption of the Series 2014 Bonds to be redeemed are on deposit with the Trustee at the place of, and the time for, payment. Any notice mailed as provided in the Indenture will be conclusively presumed to have been duly given, whether or not the Owner of such Series 2014 Bonds actually receives such notice.

**Conditional Notice of Redemption.** Any notice of redemption may, at the direction of the Issuer upon the written request of the Borrower, (i) state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the redemption date of sufficient and legally available funds to pay the Redemption Price of the Series 2014 Bonds to be redeemed and/or (ii) that the Borrower retains the right to rescind such notice on or prior to the scheduled redemption date and that if such funds shall not be so received or shall not be so legally available or if the notice shall be rescinded, such notice will be of no force or effect and such Series 2014 Bonds will not be required to be redeemed. In the event that such notice shall contain such condition(s) and sufficient legally available funds to pay the Redemption Price of such Series 2014 Bonds shall not be received by the Trustee on or prior to the redemption date or if the notice shall be rescinded on or prior to the redemption date, the redemption will not be made and the Trustee will be required, within a reasonable time thereafter, to give notice, in the manner in which the notice of redemption shall have been given, that such funds were not so received.

**Cessation of Interest.** On the date fixed for redemption, notice having been given in the manner and under the conditions hereinabove described, the Series 2014 Bonds (or portions thereof) called for redemption will be due and payable on the date fixed for redemption at the Redemption Price provided therefor. On such date, if cash and/or Defeasance Obligations sufficient to pay the Redemption Price of the Series 2014 Bonds (or portions thereof) to be redeemed, are held by the Trustee in trust for the Owners of Series 2014 Bonds (or portions thereof) to be redeemed, interest on the Series 2014 Bonds (or portions thereof) called for redemption will cease to accrue; such Series 2014 Bonds (or portions thereof) will cease to be entitled to any benefits or security under the Indenture or to be deemed Outstanding; and the Owners of such Series 2014 Bonds (or portions thereof) will have no rights in respect thereof except to receive payment of the Redemption Price thereof. Series 2014 Bonds and portions of Series 2014 Bonds for which irrevocable instructions to pay on one or more specified dates or to call for redemption at a redemption date shall have been given to the Trustee in form satisfactory to it will not thereafter be deemed to be Outstanding under the Indenture and will cease to be entitled to the security of or any rights under the Indenture, other than rights to receive payment of the Redemption Price thereof, to be given notice of redemption in the manner provided in the Indenture and described herein, and, to the extent hereinafter described, to receive Series 2014 Bonds for any unredeemed portions of Series 2014 Bonds, if cash and/or Defeasance Obligations sufficient to pay the Redemption Price of such Series 2014 Bonds (or portions thereof) are held by the Trustee in trust for the Owners of such Series 2014 Bonds.

**Redemption of a Portion of a Series 2014 Bond.** No redemption of less than all of the Series 2014A Bonds or the Series 2014B Bonds will be permitted to be made unless all Series 2014 Bonds of such Subseries remaining Outstanding after such redemption are of an Authorized Denomination. If a Series 2014 Bond is of an Authorized Denomination larger than the minimum Authorized Denomination, a portion of such Series 2014 Bond may be redeemed, but such Series 2014 Bond will be required to be redeemed in part only in an Authorized Denomination and only if the unredeemed portion thereof is an Authorized Denomination.
If a portion of an Outstanding Series 2014 Bond shall be selected for redemption, the Owner thereof or his, her, or its attorney or legal representative will be required to present and surrender such Series 2014 Bond to the Trustee for payment of the Redemption Price of such Series 2014 Bond, and the Issuer will cause to be executed and the Trustee will authenticate and deliver to or upon the order of such Owner or his, her, or its legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Series 2014 Bond so surrendered, a Series 2014 Bond or Series 2014 Bonds of the same Subseries and maturity and of any Authorized Denominations; provided, however, that if the Owner is a Securities Depository Nominee, the Securities Depository, in its discretion, will either be permitted to surrender such Series 2014 Bond to the Trustee and request that the Issuer cause to be executed and the Trustee authenticate and deliver a new Series 2014 Bond for the unredeemed portion of the principal amount of the Series 2014 Bond so surrendered or be required to make an appropriate notation on such Series 2014 Bond indicating the dates and amounts of such reduction in principal.

In all instances where the Trustee is directed by the terms of the Indenture to redeem Series 2014 Bonds from moneys deposited into the Redemption Fund, the Trustee shall redeem the maximum number of Series 2014 Bonds that may be redeemed in accordance with the applicable provisions hereof, and any excess moneys will remain in the Redemption Fund.

SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2014 BONDS

Limited Obligations


Leasehold Mortgage, Security Agreement, and Assignment of Contracts and Agreements

As security for the obligations of the Borrower to the Issuer under Loan Agreement and the Series 2014 Notes, the Borrower will execute and deliver to the Trustee (i) the Leasehold Mortgage pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first mortgage lien on its interest in the real property included in the Project and the Property and will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in the leases, rents, issues, profits, revenues, income, receipts, moneys, royalties, rights, and benefits of and from the Project, (ii) the Security Agreement pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in the Pledged Revenues, the accounts, documents, chattel paper, instruments, and general intangibles arising in any manner from the Borrower’s ownership or operation of the Project, the Inventory, and the Equipment, and (iii) the Assignment of Contracts and Agreements pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in its rights under the Development Agreement and all other contracts and agreements relating to the development, design, or construction of the Series 2014 Project. The lien created by the Leasehold Mortgage is subject to the rights of the Ground Sublessor under the Ground Sublease as the fee simple owner of the Property. The Leasehold Mortgage does not constitute a lien on the Ground Sublessor’s fee simple interest in the Property. Because of certain risks associated with pledging and granting a security interest in collateral of this nature,
prospective purchasers should not rely upon such collateral as providing any significant security for the Series 2014 Bonds. See “CERTAIN BONDBORHERS’ RISKS - Pledge and Assignment of, and Grant of Security Interest in, Future Revenues” herein.

Pledge of Pledged Revenues

As security for the obligations of the Borrower to the Issuer under Loan Agreement and the Series 2014 Notes, the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in the Pledged Revenues and the accounts, documents, chattel paper, instruments, and general intangibles arising in any manner from the Borrower’s ownership or operation of the Project.

Because of certain risks associated with granting a security interest in collateral of this nature, prospective purchasers should not rely upon such collateral as providing any significant security for the Series 2014 Bonds.

Pledge and Assignment of Trust Estate

Pursuant to the Indenture, and in order to secure the payment of the Debt Service Payments on the Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of the covenants expressed in the Indenture and in the Bonds, the Issuer will grant to the Trustee a first priority security interest in the following (the “Trust Estate”) which will consist of:

(i) all the right, title, and interest of the Issuer in and to (a) the Loan Agreement (except for Unassigned Rights) and any loan, financing, or similar agreement between the Issuer and the Borrower relating to Additional Bonds and (b) the Series 2014 Notes and any other Notes, and all extensions and renewals of the terms thereof, if any, and all amounts encumbered thereby, including, but without limitation, the present and continuing right to make claim for, collect, receive, and make receipt for payments and other sums of money payable, receivable, or to be held thereunder, to bring any actions and proceedings thereunder or for the enforcement thereof, and to do any and all other things that the Issuer is or may become entitled to do under the foregoing;

(ii) all the right, title, and interest of the Issuer in and to all cash proceeds and receipts arising out of or in connection with the sale of the Bonds and all moneys held by the Trustee in the funds created under the Indenture (excluding the Rebate Fund), including the Revenue Fund, the Bond Fund, the Redemption Fund, the Debt Service Reserve Fund, the Issuance Cost Fund, the Construction Fund, the Repair and Replacement Fund, the Insurance Fund, the Condemnation Fund, the Operations Contingency Fund, and the Surplus Fund created thereunder, or held by the Trustee as special trust funds derived from insurance proceeds, condemnation awards, payments on contractors’ performance or payment bonds or other surety bonds, or any other source;

(iii) all the right, title, and interest of the Issuer in and to all moneys and securities and interest earnings thereon from time to time delivered to and held by the Trustee under the terms of the Indenture, and all other rights of every name and nature and any and all other property from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned, or transferred as and for additional security thereunder by the Issuer or by anyone on its behalf or with its written consent to the Trustee; and

(iv) all other property of every name and nature from time to time by delivery or by writing mortgaged, pledged, delivered, or hypothecated as and for additional security under the Indenture by the Issuer or by anyone on its behalf or with its written consent in favor of the Trustee.

Under the Indenture, upon the occurrence of an Event of Default, the rights of the owners of the Series 2014 Bonds to the Trust Estate, to the extent provided for, are subject to a prior lien to secure the payment of all fees and expenses of the Trustee, and the Trustee may apply moneys received by it pursuant to any action taken by it in accordance with the Indenture in connection with such Event of Default to the payment of the costs and expenses of the proceedings resulting on the collection of such moneys and to the payment of the expenses, liabilities, and advances incurred or made by the Trustee prior to its applying such moneys to the payment of Debt Service Payments on the Bonds.
Unless an Event of Default shall occur and be continuing, the Borrower will be permitted to possess and use the Security (except cash, securities, and other personal property deposited with the Trustee) and receive and use the revenues, issues, profits, and other income of the Security (except cash, securities, and other personal property required to be deposited with the Trustee).

Because of certain risks associated with granting a security interest in collateral of the nature described above, prospective purchasers should not rely solely upon such collateral as providing security for the Series 2014 Bonds. See “CERTAIN BONDBEHOLDERS’ RISKS - Pledge and Assignment of, and Grant of Security Interest in, Future Revenues” herein.

Debt Service Reserve Fund

Under the Indenture, a Debt Service Reserve Fund will be created and will be funded initially from proceeds of the Series 2014A Bonds in an amount equal to the Debt Service Reserve Requirement for the Series 2014A Bonds as of the Closing Date. Under the Indenture, the Trustee will be authorized to transfer to the Bond Fund amounts held in the Debt Service Reserve Fund to pay the Debt Service Payments then due on the Series 2014A Bonds and on any Additional Bonds that are Tax-Exempt Bonds to the extent that there are insufficient funds for said purposes in the Bond Fund, the Redemption Fund, the Surplus Fund (including the Restricted Account of the Surplus Fund), and the Operations Contingency Fund available therefor on the date such Debt Service Payments are due. Any withdrawals for this purpose from the Debt Service Reserve Fund will be required to be restored by payments of Reserve Loan Payments by the Borrower. See “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE INDENTURE -- Revenue Fund” and “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE LOAN AGREEMENT -- Reserve Loan Payments” in APPENDIX “E” hereto. The moneys in the Debt Service Reserve Fund will not be available to pay Debt Service Payments on the Series 2014B Bonds. If Additional Bonds that are Tax-Exempt Bonds are issued, the Debt Service Reserve Fund will be required to be increased by an amount equal to the Debt Service Reserve Requirement for such Additional Bonds.

Repair and Replacement Fund

The Repair and Replacement Fund will be a trust fund into which the Borrower will be required to make monthly deposits. See “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE INDENTURE -- Revenue Fund” and “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE LOAN AGREEMENT -- Loan Payments and Other Amounts Payable” in APPENDIX “E” hereto. The moneys in the Repair and Replacement Fund will be disbursed by the Trustee for the costs of maintenance and repair of the Project or to pay the Debt Service Payments on the Bonds to the extent there are insufficient funds on deposit in the Bond Fund, the Redemption Fund, the Surplus Fund (including the Restricted Account of the Surplus Fund), the Operations Contingency Fund, and the Debt Service Reserve Fund available on the date such payments are due. There is no minimum balance that is required to be maintained in the Repair and Replacement Fund.

Title and Property Insurance

A leasehold mortgagee’s title insurance policy will be delivered in the amount of not less than the original principal amount of the Series 2014 Bonds to insure that the Trustee will have a valid first mortgage lien on the Borrower’s leasehold interest in and to the Property, subject only to Permitted Encumbrances and the standard exclusions from the coverage of such policy. Under such title insurance policy, the Trustee will not be permitted to recover more than the fair market value of any property that is lost as a result of a title defect. The Borrower will be required under the terms of the Loan Agreement to keep the Series 2014 Project fully insured against fire and other casualties and to maintain certain specified amounts of liability and business interruption insurance. See “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE LOAN AGREEMENT -- Insurance” in APPENDIX “E” hereto.

Rate Covenant

The Borrower will be required to operate the Project as a revenue producing student housing facility on a non-discriminatory basis and to the extent permitted by law and by the Ground Sublease, to charge such fees and rates for its facilities and services and to exercise such skill and diligence as will provide Revenue Available for Fixed Charges, together with other available funds, sufficient to pay promptly all expenses of operation, maintenance, and repair of the Project and to provide all payments required to be made by the Borrower under the
Loan Agreement. Such rates, fees, and charges will be required to be sufficient to produce a Fixed Charges Coverage Ratio of at least 1.20. In the event that it shall be determined, based upon the annual audited financial statements of the Borrower required by the provisions of the Loan Agreement described in APPENDIX “E” attached hereto under the heading “THE LOAN AGREEMENT - Financial Statements,” that for any Annual Period, such Fixed Charges Coverage Ratio shall not have been maintained, the Borrower will be required, within thirty (30) days of receipt of such financial statements, to engage a Financial Consultant to submit a report of such firm containing recommendations as to changes in the operating policies of the Borrower designed to maintain such Fixed Charges Coverage Ratio, to cause such Financial Consultant to prepare and submit such recommendations within sixty (60) days of the date of its engagement, and to implement such recommendations promptly to the extent permitted by law and by the Ground Sublease. No Event of Default under the Loan Agreement will occur as a result of the provisions of the Loan Agreement described in this paragraph if the recommendations of the Financial Consultant are followed notwithstanding that such Fixed Charges Coverage Ratio shall not subsequently be reattained, but the Borrower will continue to be obligated to employ such a Financial Consultant for such purpose until such Fixed Charges Coverage Ratio shall be reattained.

The Borrower will also be required, from time to time as often as necessary and to the extent permitted by law and the Ground Sublease, to revise the rates, fees, and charges aforesaid in such manner as may be necessary or proper so that the Revenue Available for Fixed Charges will be sufficient to meet the requirements of the Loan Agreement, and further, in order to comply with provisions of the Loan Agreement to take all action within its power to obtain approvals of any regulatory or supervisory authority to implement any rates, fees, and charges required by the Loan Agreement. See “THE LOAN AGREEMENT - Financial Covenants -- Rate Covenant” in APPENDIX “E” attached hereto.

Enforceability of Remedies

The realization of value from the real and personal property comprising the Project and from the other security for the Series 2014 Bonds upon any default will depend upon the exercise of various remedies specified by the Bond Documents. These and other remedies may require judicial actions, which are often subject to discretion and delay and which may be difficult to pursue. See “CERTAIN BONDHOLDERS’ RISKS - Enforceability of Remedies” and “CERTAIN BONDHOLDERS’ RISKS - Pledge and Assignment of, and Grant of Security Interest in, Future Revenues” herein.

ADDITIONAL BONDS

So long as no Event of Default under the Indenture shall then be existing, Additional Bonds may be issued by the Issuer upon the request of the Borrower to provide funds to pay any one or more of the following: (i) the costs of completing a portion of the Project, (ii) the costs of making such Additions or Alterations as the Borrower may deem necessary or desirable and as will not impair the nature of the Project as a student housing facility and as will be located on the Property, (iii) the costs of refunding any Bonds, and (iv) in each such case, the costs of the issuance and sale of the Additional Bonds and capitalized or funded interest for such period and such other costs reasonably related to the financing as shall be agreed upon by the Borrower and the Issuer. Such Additional Bonds will be issued on a parity with the Series 2014 Bonds and any Additional Bonds theretofore or thereafter issued, will be secured by the lien and security interests granted by the Leasehold Mortgage and the Security Agreement, equally and ratably with the Series 2014 Bonds and any Additional Bonds theretofore or thereafter issued, and will be payable from the Bond Fund and the Redemption Fund. An amount equal to the Debt Service Reserve Requirement for any Tax-Exempt Bonds included in the Additional Bonds, if any, will be required to be deposited into the Debt Service Reserve Fund.

Prior to the issuance of any Additional Bonds to finance the cost of completing a portion of the Project or making Additions or Alterations to the Project, there will be required to be prepared and filed with the Trustee a certificate of the Borrower approved by an Independent Engineer setting forth the estimated costs of the proposed completion or the proposed Additions or Alterations to the Project, including an allowance for contingencies, the estimated date on which the completed Project or such Additions or Alterations will be placed in service or completed, and the amount, if any, provided or to be provided by the Borrower from other sources toward payment of the costs of such completion or such Additions or Alterations to the Project and the manner in which such funds will be provided.
Subject to the provisions of the Indenture described in the third succeeding paragraph, prior to the issuance of any Additional Bonds to finance the costs of completing a portion of the Project, the Borrower will be required to furnish to the Trustee a written report of a Financial Consultant showing that (giving effect to the issuance or incurrence of such Additional Bonds) (i) the expected Fixed Charges Coverage Ratio for each of the three (3) Annual Periods immediately following the Annual Period in which the completed Project is expected to be placed in operation is not less than 1.25 and (ii) the expected Revenue Available for Fixed Charges for each Annual Period until the completed Project is expected to be placed in operation plus any capitalized or funded interest is sufficient to pay the Fixed Charges, including the Fixed Charges that relate to the proposed Additional Bonds, for each Annual Period until the completed Project is expected to be placed in operation.

Prior to the issuance of any Additional Bonds to finance the cost of Additions or Alterations to the Project, there will be required to be prepared and filed with the Trustee:

(i) (A) the certificates or schedules regarding the Fixed Charges Coverage Ratio required by the Loan Agreement as described in APPENDIX “E” attached hereto under the subheading “THE LOAN AGREEMENT - Financial Covenants -- Rate Covenant” evidencing that for each of the two (2) Annual Periods immediately preceding the issuance of the proposed Additional Bonds the Fixed Charges Coverage Ratio was greater than or equal to 1.25 and (B) a written report of a Financial Consultant showing that (giving effect to the issuance of such Additional Bonds and to the application of the proceeds thereof and resulting additional income from any Additions or Alterations constructed and acquired from such proceeds) (1) the expected Fixed Charges Coverage Ratio for each of the three (3) Annual Periods immediately following the Annual Period in which such Additions or Alterations are expected to be placed in operation is not less than 1.25 and (2) the expected Revenue Available for Fixed Charges for each Annual Period until such Additions or Alterations are expected to be placed in operation plus any funded interest is sufficient to pay the Fixed Charges, including the Fixed Charges that relate to the proposed Additional Bonds, for each Annual Period until such Additions or Alterations are expected to be placed in operation; or

(ii) a written report or opinion of an Accountant to the effect that for each of the three (3) Annual Periods immediately preceding the issuance of the proposed Additional Bonds the Fixed Charges Coverage Ratio, determined by the application of pro forma adjustments to the audited financial statements of the Borrower furnished to the Trustee pursuant to the Loan Agreement as described in APPENDIX “E” attached hereto under the heading “THE LOAN AGREEMENT - Financial Statements” that include the debt service on the proposed Additional Bonds in Fixed Charges for each such Annual Period, was greater than or equal to 1.25; or

(iii) a written report of a Financial Consultant showing that (giving effect to the issuance of such Additional Bonds and to the application of the proceeds thereof and resulting additional income from any Additions or Alterations constructed and acquired from such proceeds) (A) the Fixed Charges Coverage Ratio for each of the three (3) Annual Periods immediately following the Annual Period in which such Additions or Alterations are expected to be placed in operation is not less than 1.35 and (B) the expected Revenue Available for Fixed Charges for each Annual Period until such Additions or Alterations are expected to be placed in operation plus any funded interest is sufficient to pay the Fixed Charges, including the Fixed Charges that relate to the proposed Additional Bonds, for each Annual Period until such Additions or Alterations are expected to be placed in operation; or

(iv) in the case of Additional Bonds issued to finance the cost of Additions or Alterations that will replace existing student housing on the [Campus], (A) a certificate of the [President/chief financial officer] of the University to the effect that subsequent to the delivery of the Series 2014 Bonds and prior to the opening of such Additions or Alterations, a number of beds at least equal to the beds to be provided by such Additions or Alterations will be taken off-line from the inventory of existing student housing on the [Campus], a number of beds at least equal to the beds to be provided by such Additions or Alterations and (B) a written report of an Accountant to the effect that for each of the two (2) Annual Periods preceding the issuance of the proposed Additional Bonds for which audited financial statements are available, the Fixed Charges Coverage Ratio was at least 1.20; or

(v) evidence reasonably acceptable to the Trustee that such Additions or Alterations were ordered by any governmental body or required by an accrediting agency of the University.
Prior to the issuance of any Additional Bonds to refund any Bonds that results in the refunding of less than all of the then Outstanding Bonds, there will be required to be prepared and filed with the Trustee:

(i) a written report or opinion of an Accountant to the effect that the debt service requirements on all Bonds (assuming no more Bonds are issued after the proposed refunding) for any Annual Period subsequent to the refunding to and including the Annual Period of the final maturity of Bonds outstanding prior to the refunding will not, as a result of such refunding, exceed the debt service requirements for any such Annual Period had such refunding not occurred; or

(ii) (A) the certificates or schedules regarding the Fixed Charges Coverage Ratio required by the Loan Agreement as described in APPENDIX “E” attached hereto under the subheading “THE LOAN AGREEMENT - Financial Covenants -- Rate Covenant” evidencing that for each of the two Annual Periods immediately preceding the issuance of the proposed Additional Bonds the Fixed Charges Coverage Ratio was greater than or equal to 1.25 and (B) a written report of a Financial Consultant showing that (giving effect to the issuance of such Additional Bonds and to the refunding for each of the three (3) Annual Periods immediately following such refunding is not less than 1.25; or

(iii) a written report or opinion of an Accountant to the effect that for each of the three (3) Annual Periods immediately preceding the issuance of the proposed Additional Bonds the Fixed Charges Coverage Ratio, determined by the application of pro forma adjustments to Fixed Charges, as determined from the audited financial statements of the Borrower furnished to the Trustee pursuant to the Loan Agreement as described in APPENDIX “E” attached hereto under the heading “THE LOAN AGREEMENT - Financial Statements,” that substitute the debt service on the proposed Additional Bonds for the actual debt service on the Bonds proposed to be refunded for each such Annual Period, was greater than or equal to 1.25; or

(iv) forecasted financial statements for the three (3) Annual Periods immediately following such refunding, that give a written report of a Financial Consultant showing that (giving effect to the issuance of such Additional Bonds and to the refunding) the expected Fixed Charges Coverage Ratio for each of the three (3) Annual Periods immediately following such refunding is not less than 1.35.

Additional Bonds in an amount not to exceed ten percent (10%) of the principal amount of the Series 2014 Bonds or any Additional Bonds issued or incurred to finance Additions or Alterations may be issued to provide funds to complete the acquisition, construction, furnishing, and equipping of the Series 2014 Project or such Additions or Alterations, as applicable, without regard to the requirements described in the third preceding paragraph.

ANY ADDITIONAL BONDS WILL BE SECURED BY THE LIEN AND SECURITY INTERESTS GRANTED BY THE LEASEHOLD MORTGAGE AND THE SECURITY AGREEMENT AND WILL BE EQUAL, WITHOUT PREFERENCE OR PRIORITY, TO THE LIEN AND SECURITY INTEREST PROVIDED FOR THE SERIES 2014 BONDS.

The debt service for any Additional Bonds will be required to be structured so that the Debt Service Payments on such Additional Bonds for any year will not exceed the Debt Service Payments on such Additional Bonds for any other year by more than Fifty Thousand Dollars ($50,000).

Such Additional Bonds will be issued in such Series, Subseries, and principal amounts, will be dated, will bear interest at such rate or rates, will be subject to redemption at such times and prices, and will mature in such years as the supplemental indenture authorizing the issuance thereof shall fix and determine and will be deposited with the Trustee for authentication and delivery.

NOTWITHSTANDING ANYTHING ELSE HEREIN DESCRIBED TO THE CONTRARY, NO ADDITIONAL BONDS MAY BE ISSUED PURSUANT TO THE INDENTURE UNLESS AND UNTIL THERE SHALL BE FURNISHED TO THE TRUSTEE WRITTEN CONFIRMATION FROM EACH RATING AGENCY THAT THE ISSUANCE OF SUCH ADDITIONAL BONDS WILL NOT RESULT IN A REDUCTION, SUSPENSION, OR WITHDRAWAL OF ANY RATING OF ANY SUBSERIES OF BONDS.
CERTAIN BONDBOARDER'S RISKS

Introduction

No person should purchase any of the Series 2014 Bonds without carefully reviewing the following information, which summarizes some, but not all, of the factors that should be carefully considered prior to such a purchase. Furthermore, the tax-exempt feature of the Series 2014A Bonds is relatively more valuable to high tax bracket purchasers than to purchasers who are in the lower tax brackets, and so the value of the interest compensation to any particular purchaser will vary with his, her, or its marginal tax rate. Each prospective purchaser should, therefore, determine his, her, or its present and anticipated marginal tax rate before investing in the Series 2014 Bonds. Each prospective purchaser should also carefully examine this Official Statement and his, her, or its own financial condition (including the diversification of his, her, or its investment portfolio) in order to make a judgment as to whether the Series 2014 Bonds are an appropriate investment.

Identified and summarized below are a number of considerations or risks that could adversely affect the operation of the Project and/or the Series 2014 Bonds and that should be considered by prospective purchasers. The following discussion is not intended to be exhaustive, but includes certain major factors that should be considered along with other factors set forth elsewhere in this Official Statement, including the Appendices hereto.

Revenues from Operation of the Project

If the Borrower is unable to generate sufficient revenues from the operation of the Series 2014 Project to pay its operating expenses and principal and interest on the Series 2014 Notes, an Event of Default will occur under the Bond Documents. Upon an Event of Default, the Series 2014 Bonds may not be paid or may be paid before maturity or applicable redemption dates and a forfeiture of redemption premiums may result. The Borrower's ability to generate revenues and its overall financial condition may be adversely affected by a wide variety of future events and conditions including: (i) a decline in the enrollment of the University, (ii) increased competition from other schools, (iii) loss of accreditation, (iv) failure to meet applicable federal guidelines or some other event that results in students being ineligible for federal financial aid, and (v) cost overruns in connection with the Project or other capital improvements.

Limited Obligations of the Issuer

The Series 2014 Bonds constitute limited obligations of the Issuer and have three potential sources of payment. The sources of payment are as follows:

1. Loan Payments received by the Trustee from the Borrower pursuant to the terms of the Indenture and the Loan Agreement.

   The Issuer has no obligation to pay the Series 2014 Bonds except from the related Trust Estate, including Basic Loan Payments derived from the Loan Agreement. See APPENDIX ‘D’ for the definition of “Trust Estate.” The Series 2014 Bonds, together with interest and premium, if any, thereon, will not be or constitute general obligations or indebtedness of the State, the University, the Board of Trustees, or any other political subdivision of the State, but will be limited obligations of the Issuer. Neither the faith and credit nor the taxing power of the County, the State, or any other agency or political subdivision thereof is pledged to the payment of the Debt Service Payments on the Series 2014 Bonds, and the owners of the Series 2014 Bonds, will not have the right to compel any exercise of the taxing power of the County, the State, or any other political subdivision of the State to pay the Series 2014 Bonds, any premium thereon, or the interest thereon. The Issuer has no taxing power. The Borrower will be required to make Basic Loan Payments (the interest in which the Trustee has received by assignment from the Issuer) to the Trustee in amounts sufficient to enable the Trustee to pay the Debt Service Payments on the Series 2014 Bonds. See “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE INDENTURE -- Bond Fund” in APPENDIX “E” hereto. The Basic Loan Payments will be derived solely from operation of the Project. Furthermore, the Borrower’s ability to meet its obligations under the Loan Agreement will depend upon achieving and maintaining certain occupancy levels at the Project throughout the term of the Series 2014 Bonds. However, no assurance can be made that the Borrower will generate sufficient revenues from the Project to pay Debt Service Payments on the Series 2014 Bonds after payment of operating expenses of the Project.

2. Revenues received from operation of the Project by a receiver upon a default under the Indenture.
It has been the experience of lenders in recent years that attempts to have a receiver appointed to take charge of properties with respect to which loans have been made are frequently met with defensive measures such as the initiation of protracted litigation and the initiation of bankruptcy proceedings. Such defensive measures can prevent the appointment of a receiver or greatly increase the expense and time involved in having a receiver appointed. See “CERTAIN BONDBOlaus’ RISKS - Enforceability of Remedies” herein. Accordingly, prospects for uninterrupted payment of principal and interest on the Series 2014 Bonds in accordance with their terms are largely dependent upon Basic Loan Payments from the Borrower described in the preceding paragraph, which are wholly dependent upon the success of the Borrower in the operation of the Project.

(3) Proceeds realized from the sale or lease of the Borrower’s interest in the Project to a third party by the Trustee at or following foreclosure by the Trustee of the Leasehold Mortgage and proceeds realized from the liquidation of other security for the Series 2014 Bonds.

Debtors frequently employ defensive measures, such as protracted litigation and bankruptcy proceedings, in response to lenders’ efforts to foreclose on real property or otherwise to realize upon collateral to satisfy indebtedness that is in default. Such defensive measures can prevent, or greatly increase the expense and time involved in achieving, such foreclosure or other realization. In addition, the Trustee could experience difficulty in selling or leasing the real and personal property portion of the Project upon foreclosure due to the special purpose nature of a student housing facility, and the proceeds of such sale may not be sufficient to pay fully the owners of the Series 2014 Bonds. See “CERTAIN BONDBOlaus’ RISKS - Enforceability of Remedies” herein. Accordingly, prospects for uninterrupted payment of principal and interest on the Series 2014 Bonds in accordance with their terms are largely dependent upon the Basic Loan Payments described in paragraph (1) above, which are wholly dependent upon the success of the Project. Even if the Project is operating in an efficient manner, other factors could affect the ability of the Borrower to make Basic Loan Payments under the Loan Agreement. The Borrower also may become engaged in other ventures in the future.

Limited Resources

The Borrower has no substantial revenues or assets other than the Series 2014 Project. Furthermore, the Series 2014 Bonds are secured only by the operations and assets of the Project. Therefore, timely payment of Debt Service Payments on the Series 2014 Notes will be dependent upon the Borrower’s ability to generate revenues from the Project sufficient to pay its operating expense and such payments of principal of and premium, if any, and interest on the Series 2014 Notes. If after payment of operating expenses, net revenues are insufficient to pay the principal of and premium, if any, and interest on the Series 2014 Notes, the Borrower likely will have no moneys or assets other than the Series 2014 Project from which to make such payments.

Required Occupancy Levels and Rents

In order for the Borrower to generate sufficient revenues to enable it to make the payments at the times required under the Loan Agreement, the Series 2014 Project must meet certain occupancy levels and achieve certain rents. There can be no assurance, however, that the Series 2014 Project will be able to meet and maintain such required occupancy and rent levels.

Special Use Nature of the Series 2014 Project

The Series 2014 Project will be constructed to serve as a student housing facility and will be located on the Campus. If it were necessary to sell the Borrower’s interest in the Ground Sublease pursuant to the Leasehold Mortgage upon an Event of Default, the special use nature of the Series 2014 Project and the fact that the interest to be sold is in the nature of a leasehold interest and subject to the terms of the Ground Sublease may curtail the purchase price that could be obtained, and the net proceeds received may be less than the principal amount of Series 2014 Bonds Outstanding. For all practical purposes, payment of the Series 2014 Bonds will be almost solely dependent upon the continued operation of the Series 2014 Project.

Risks Associated with the Ground Sublease

Neither the Issuer nor the Borrower will have fee title to the Property. Instead, the Borrower will lease the Property from the University pursuant to the Ground Sublease. The Borrower’s obligation to comply with the terms
of the Ground Sublease and to relinquish any claim to the Series 2014 Project upon the termination of the Ground Sublease will likely render the Series 2014 Project less valuable to prospective purchasers upon foreclosure. See “THE GROUND SUBLEASE” herein.

Geographic Concentration

The occupancy rates of the Series 2014 Project may be adversely affected by regional and local economic conditions, competitive conditions, local laws and regulations, and general real estate market conditions, including the supply, proximity, and amenities of apartment communities in the area.

Insurance and Legal Proceedings

The Borrower will carry property and general liability insurance in amounts believed by the Borrower to be adequate and consistent with industry practices. See “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE LOAN AGREEMENT -- Insurance” in APPENDIX “E” hereto. However, there can be no assurance that any current or future claims will be covered by or will not exceed applicable insurance coverage. No casualty will entitle the Borrower to any postponement, abatement, or diminution of the Basic Loan Payments. See “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE LOAN AGREEMENT -- Destruction and Damage” in APPENDIX “E” hereto.

Competition

The student housing industry is highly competitive. Such competition may inhibit the extent to which the Borrower will be able to increase rates and charges and maintain or increase occupancy of the Series 2014 Project. Competing companies may offer newer or different projects, amenities, or services and thereby attract residents who are current or potential residents of the Series 2014 Project. Either the Developer or, under certain circumstances, the University may acquire or develop additional student housing facilities that compete with the Series 2014 Project. See “THE OPERATING AGREEMENT - University’s Agreement Regarding Additional Student Housing” herein.

Government Regulation

The housing industry is significantly regulated by the federal and local government. Regulations and conditions affecting the acquisition, development, and ownership of residential real estate, including local zoning and land use issues, environmental regulations, the Americans with Disabilities Act, the Fair Housing Amendments Act of 1988, and general conditions in the market, could increase the operating expenses of the Series 2014 Project or could otherwise have a material adverse effect on the operation thereof.

Risks of Construction

On the basis the Developer’s representation, management of the Borrower believes that the proceeds of the Series 2014 Bonds will be sufficient to complete the Series 2014 Project; however, the cost of construction of the Series 2014 Project may be affected by factors beyond the control of the Borrower, including strikes, material shortages, adverse weather conditions, subcontractor defaults, delays, and unknown contingencies.

The General Construction Contract between the Developer and the General Contractor (hereinafter defined) will obligate the General Contractor to complete the Series 2014 Project within a specified time for a fixed price. The cost of the Series 2014 Project may be increased, however, if there are change orders. The General Construction Contract requires the General Contractor to furnish performance and payment bonds; however, there can be no assurance that the obligations of the surety under such bonds can be enforced without costly and time-consuming litigation.

If cost overruns resulting from delays, change orders, or other causes are experienced, the Developer will be obligated, subject to force majeure and eminent domain, to complete the Series 2014 Project at its own expense. To the extent that construction is delayed or halted due to acts of force majeure or eminent domain, neither the Issuer, the University, the Borrower, nor the General Contractor will have any obligation to provide for such completion. In the event the Series 2014 Project is not completed, the only meaningful security for the owners of the Series 2014 Bonds would be the right to foreclose under the Leasehold Mortgage on the Borrower’s interest in
the uncompleted Series 2014 Project. While the Indenture permits the Issuer to issue Additional Bonds to complete the Series 2014 Project, the Issuer is not obligated to issue such Additional Bonds and there can be no assurance that a purchaser for such Additional Bonds could be obtained.

**Hurricanes and Other Natural Disasters**

The Series 2014 Project is located in southeast Florida and in Miami-Dade County, an area that is approximately one (1) mile inland from the Atlantic Ocean. The coastal areas are generally susceptible to hurricanes, severe weather disturbances, and floods. The occurrence of such natural events could damage the University and the Series 2014 Project and/or the local infrastructure that provides essential transportation and utilities services to the University and the Series 2014 Project. No assurance can be given as to whether future natural events will occur that could materially impair the Borrower’s ability to generate revenues and make timely payment under the Loan Agreement.

**Clean-up Costs and Liens under Environmental Statutes**

In anticipation of the execution and delivery of the Ground Sublease, the [Developer] retained [Name of Environmental Engineer], [City of Environmental Engineer] (the “Environmental Engineer”), to conduct an environmental site assessment (the “Site Assessment”) of the Property. The Environmental Engineer identified no concerns. Prospective purchasers of the Series 2014 Bonds may obtain a copy of the Site Assessment from the Underwriter; however, prospective purchasers of the Series 2014 Bonds may not rely upon the findings contained in the Site Assessment or upon any action or undertaking of the Developer in connection therewith.

The Borrower is not aware of any enforcement actions currently in process with respect to any releases of pollutants or contaminants at the Property. However, there can be no assurance that an enforcement action or actions will not be instituted under such statutes at a future date. In the event such enforcement actions were initiated, the Borrower could be liable for the costs of removing or otherwise treating pollutants or contaminants located at the Property. In addition, under applicable environmental statutes, in the event an enforcement action were initiated, a lien superior to the Trustee’s lien on behalf of the Bondholders could attach to the Project, which would adversely affect the Trustee’s ability to realize value from the disposition of the Borrower’s interest in the Project upon foreclosure of the Leasehold Mortgage. Furthermore, in determining whether to exercise any foreclosure rights with respect to the Project under the Indenture, the Trustee and the Bondholders would need to take into account the potential liability of any tenant of the Project, including a tenant by foreclosure, for clean-up costs with respect to such pollutants and contaminants.

**Pledge and Assignment of, and Grant of Security Interest in, Future Revenues**

Under the Security Agreement, the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in (i) the Equipment, (ii) the Pledged Revenues, (iii) the accounts, documents, chattel paper, instruments, and general intangibles arising in any manner from the Borrower’s ownership or operation of the Project, (iv) the Inventory, (v) any and all tenant contracts, rental agreements, franchise agreements, management contracts, construction contracts, and other contracts, licenses and permits affecting the Project, and (vi) all proceeds of any of the foregoing. Nevertheless, certain interests and claims of others may be on a parity with or prior to the grant of security interest made in the Loan Agreement and/or Security Agreement and in the Indenture and certain statutes and other provisions may limit the Borrower’s and the Issuer’s rights to make such pledges, assignments, and/or grants of security interests. Examples of such claims, interests, and provisions are:

1. statutory liens,
2. the Florida Uniform Commercial Code may not recognize a security interest in future revenues derived from the Project,
3. constructive trusts, equitable liens, or other rights impressed or conferred by any state or federal court in the exercise of its equitable jurisdiction,
4. federal bankruptcy laws as they affect amounts earned with respect to the Project after any effectual institution of bankruptcy proceedings by or against the Borrower or the Issuer,
as to those items in which a security interest can be perfected only by possession, including items converted to cash, the rights of third parties in such items not in the possession of the Trustee.

items not in possession of the Trustee, the records to which are located or moved outside the State of Florida, which are thereby not subject to or are removed from the operation of Florida law, and

the requirement that appropriate continuation statements be filed in accordance with the Florida Uniform Commercial Code as from time to time in effect.

Enforceability of Remedies

The Series 2014 Bonds are payable from the Trust Estate, including payments to be made under the Loan Agreement and the Indenture. The payments to be made by the Borrower under the Loan Agreement are secured by (i) a first mortgage lien on the Borrower’s interest in the Project and the Property pursuant to the Leasehold Mortgage, (ii) a grant to the Trustee of a security interest in (a) the Borrower’s interest in the rents, issues, profits, revenues, income, receipts, moneys, royalties, rights and benefits of and from the Project and from and in connection with the Borrower’s ownership or operation of the Project and (b) all leases of all or part of the Project and any and all tenant contracts, rental agreements, franchise agreements, management contracts, construction contracts, concessions, and other contracts, expenses, and permits pursuant to the Leasehold Mortgage, (iii) a grant of a security interest in the Pledged Revenues, (iv) a grant of a security interest in the accounts, documents, chattel paper, instruments, and general intangibles arising in any manner from the Borrower’s ownership or operation of the Project pursuant to the Security Agreement, and (v) a grant of a security interest in Inventory and in the Equipment pursuant to the Security Agreement, all subject to Permitted Encumbrances. Pursuant to the Indenture, the Series 2014 Bonds are secured by the Trust Estate, including the grant of a security interest to the Trustee in the Issuer’s interest in the Loan Agreement. The practical realization of value upon any default will depend upon the exercise of various remedies specified by the Bond Documents. These and other remedies may, in many respects, require judicial actions, which are often subject to discretion and delay. Under existing law (including, particularly, federal bankruptcy law), the remedies specified by the Bond Documents may not be readily available or may be limited. A court may decide not to order the specific performance of the covenants contained in the Bond Documents. The various legal opinions to be delivered concurrently with the delivery of the Series 2014 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws, rulings, and decisions affecting remedies, including judicial discretion in the application of the principles of equity, and by bankruptcy, reorganization, or other laws affecting the enforcement of creditors’ rights generally.

Effect of Determination of Taxability

The Borrower will covenant not to take any action that would cause the Series 2014A Bonds to be arbitrage bonds or that would otherwise adversely affect the federal income tax status of interest in the Series 2014A Bonds. The Borrower and the Corporation will also make representations with respect to certain matters within their knowledge that have been relied on by Bond Counsel and that Bond Counsel has not independently verified. Failure to comply with such covenants could cause interest on the Series 2014A Bonds to become subject to federal income taxation retroactively from the Closing Date.

It is possible that a period of time may elapse between the occurrence of the event that causes interest to become taxable and the determination that such an event has occurred. In such a case, interest previously paid on the Series 2014A Bonds could become retroactively taxable from the date of their issuance. Additionally, certain owners of Series 2014A Bonds are subject to possible adverse tax consequences. See “TAX MATTERS” herein.

Market for the Series 2014 Bonds

The Series 2014 Bonds will not be listed on a securities exchange or inter-dealer quotation system. Although the Underwriter currently intends to make a market for the Series 2014 Bonds, the Underwriter is not obligated to purchase any of the Series 2014 Bonds in the future, and such market making may be discontinued at any time. There can be no assurance that there will be a secondary market for the Series 2014 Bonds, and the absence of such a market for the Series 2014 Bonds could result in investors not being able to resell their Series 2014 Bonds should they need or wish to do so.
Actual Results May Differ from Cash Flow Forecast

The Market Study and its forecast of future demands included as APPENDIX “B” hereto, and the Cash Flow Forecast and its forecast of future revenues and expenses with respect to the Series 2014 Project included as APPENDIX “C” hereto, are based upon assumptions concerning future events, circumstances, and transactions. The Market Study should be read in its entirety. In addition, the Cash Flow Forecast contained herein only covers the approximate ten-year period ending [June 30], [2024], and consequently does not cover the entire period during which the Series 2014 Bonds may be Outstanding. The achievement of any results of the Market Study, the Cash Flow Forecast, or other forecast is dependent upon future events, the occurrence of which cannot be assured. Realization of the results forecasted will depend, among other things, on the implementation by the University of policies and procedures consistent with the assumptions. Future results will also be affected by events and circumstances beyond the control of the Borrower. For the reasons described above, it is likely that the actual results of the Series 2014 Project will be different from the results forecast in the Market Study and the Cash Flow Forecast included herein, and those differences may be material and adverse.

Forward Looking Statements

This Official Statement, including but not limited to the information contained in the Market Study and the Cash Flow Forecast, contains statements relating to future results that are “forward looking statements” as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words “estimate,” “forecast,” “intend,” “expect,” and similar expressions identify forward looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward looking statements. The factors that may cause projected revenues and expenditures to be materially different from those anticipated include (1) the ability of the Borrower to market the Series 2014 Project, (2) the ability of the Series 2014 Project to maintain substantial occupancy at projected increased rent levels of the Series 2014 Project, (3) the ability of the residents of the Series 2014 Project to meet their financial obligations, (4) lower than anticipated revenues, (5) higher than anticipated operating expenses, (6) litigation, (7) changes in governmental regulation, (8) loss of federal tax-exempt status of the Borrower, (9) loss of local property tax exemption, (10) changes in demographic trends, (11) competition from other residential rental projects, (12) changes in the student housing industry, and (13) general economic conditions. No representation or assurances can be made that Revenues will be generated from the operation of the Series 2014 Project in amounts sufficient to pay maturing principal and interest on the Series 2014 Bonds.

Additional Bonds

The Issuer has the right to issue Additional Bonds under the Indenture that will be equally and ratably secured on a parity basis with the Series 2014 Bonds. See “ADDITIONAL BONDS” herein and “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE INDENTURE -- Additional Bonds” in APPENDIX “E” hereto. SUCH ADDITIONAL BONDS COULD DILUTE THE SECURITY FOR THE SERIES 2014 BONDS.

Consequences of Changes in the Corporation’s or the University’s Tax Status

The Corporation has obtained a determination letter from the Internal Revenue Service stating that it will be treated as an exempt organization as described in §501(c)(3) of the Code and can reasonably be expected to not be classified as a “private foundation.” In order for the Corporation to maintain its exempt status and to not be considered a private foundation, the Corporation and the Borrower will be subject to a number of requirements affecting their operations. The possible modification or repeal of certain existing federal income tax laws, the change of Internal Revenue Service policies or positions, the change of the Corporation’s or the Borrower’s method of operations, purposes or character or other factors could result in loss by the Corporation of its tax-exempt status.

The Borrower will covenant to cause the Corporation to remain eligible for such tax-exempt status and to avoid operating the Project as an unrelated trade or business (as determined by applying §512(a) of the Code). Failure of the Project to remain so qualified or of the Borrower so to operate the Project could affect the funds available to the Borrower for payments under the Loan Agreement by subjecting the Corporation and the Borrower to federal income taxation and could result in the loss of the excludability of interest on the Series 2014A Bonds from gross income for purposes of federal income taxation. Potential investors should note that in such event, the provisions of the Indenture relating to a Determination of Taxability may be applicable. Continuation of the tax-
exempt status of the Series 2014A Bonds may also be dependent upon the continuing tax-exempt status of the University. See “CERTAIN BONDBEHOLDERS' RISKS - Effect of Determination of Taxability” above.

**Taxation of Series 2014 Bonds**

An opinion of Bond Counsel will be obtained as described under “TAX MATTERS” herein. Such an opinion is not binding on the Internal Revenue Service. Application for a ruling from the Internal Revenue Service regarding the status of the interest on the Series 2014A Bonds has not been made. The opinion of Bond Counsel contains certain exceptions and is based on certain assumptions described herein under the heading “TAX MATTERS.” Failure by the Issuer or the Borrower to comply with certain provisions of the Code and covenants contained in the Indenture, the Loan Agreement, and the Tax Agreement could result in interest on the Series 2014A Bonds becoming includable in gross income for federal tax purposes.

An opinion of Bond Counsel will be obtained regarding the exemption of interest on the Series 2014 Bonds from certain taxation by the State of Florida, as described under “TAX MATTERS” herein. Bond Counsel has not opined as to whether interest on the Series 2014 Bonds is subject to state or local income taxation in jurisdictions other than Florida. Interest on the Series 2014 Bonds may or may not be subject to state or local income taxation in jurisdictions other than Florida under applicable state or local laws. Each purchaser of the Series 2014 Bonds should consult his or her own tax advisor regarding the taxable status of the Series 2014 Bonds in a particular state or local jurisdiction.

**Book-Entry System**

The Series 2014 Bonds will be represented by one or more certificates registered in the name of Cede & Co., the nominee for DTC, and will not be registered in the names of the beneficial owners of such Series 2014 Bonds or their nominees. Because of this, unless and until definitive securities are issued, Beneficial Owners of such Series 2014 Bonds will not be recognized by the Trustee as “registered owners.” Hence, until definitive securities are issued, Beneficial Owners of such Series 2014 Bonds will only be able to exercise the rights of Registered Owners indirectly through DTC and its participating organizations.

**Risk of Audit by Internal Revenue Service**

The Internal Revenue Service has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Internal Revenue Service, interest on such tax-exempt obligations is includible in the gross income of the owners thereof for federal income tax purposes. Certain types of transactions are being targeted for audit, including financings of student housing facilities.

No assurances can be given as to whether the Internal Revenue Service will commence an audit of the Series 2014A Bonds. If an audit is commenced, under current procedures the Internal Revenue Service is likely to treat the Issuer as the taxpayer and the Bondholders may have no right to participate in such procedure. Neither the Underwriter nor Bond Counsel will be obligated to defend the tax-exempt status of the Series 2014A Bonds. Neither the Issuer nor Bond Counsel will be responsible to pay or reimburse the cost of any Bondholders with respect to any audit or litigation relating to the Series 2014A Bonds.

**THE DEVELOPER AND THE DEVELOPMENT AGREEMENT**

**General**

The Developer is a Texas limited liability company formed in 2010 for the express purpose of providing design and development services to the higher education industry. The principal business office of the Developer is located in Irving, Texas. The Developer’s key personnel have been involved with the development, construction, management, and/or financing of multiple student housing facilities nationwide. As of the present date, the Developer and its key personnel have developed (or have been selected to develop) approximately 10,834 on-campus student beds, on thirty (30) separate collegiate campuses (including the Series 2014 Project).

The Developer was selected to develop the Series 2014 Project as a result of an ITN (Invitation to Negotiate) request made by the University.
Key Personnel

**Rafael Figueroa, President.** Mr. Figueroa has in excess of thirty-five (35) years of diverse development, operations, and marketing experience with regional and national real estate firms. He has experience in student housing planning, development, and management and is involved in the financial and investment analysis aspects of the industry. His experience encompasses providing strategic master planning, market research, and development for several universities, and specifically includes over 20,000 student housing beds.

Mr. Figueroa was most recently associated with a national multi-family development firm where he established and led the on-campus housing development division of the company. His other experience includes serving in senior leadership positions at Sallie Mae and North Carolina State University.

Mr. Figueroa received his Masters in Land Economics and Real Estate degree from Texas A&M University.

**Blair Tavenner, Senior Vice President of Finance and Administration.** Mr. Tavenner brings in excess of thirty (30) years of experience in operations, commercial real estate lending, real estate workout transactions, loan documentation, closings, contract negotiations, bankruptcy, asset management, and student housing.

Mr. Tavenner received his BSBA in Finance from The Ohio State University and has completed additional course work in advanced finance principles, bankruptcy, and real estate analysis. He also brings more than fifteen (15) years of experience structuring student housing projects.

**Matt Myllykangas, Vice President Development and Pre-Construction.** Mr. Myllykangas has held various leadership positions throughout his nineteen (19) year career and has specialized in public-private partnerships for the past nine (9) years.

Mr. Myllykangas received his Bachelor of Science degree in Mechanical Engineering from the United States Military Academy at West Point and his Master’s degree in Business Administration from the Wharton School at the University of Pennsylvania.

Projects Developed and to be Developed by the Developer and Experience of Developer’s Managers

The tables below describes the student housing communities (including the Series 2014 Project) (off- and on-campus) developed (and to be developed) by the Developer and its key personnel. Some of these projects are:

<table>
<thead>
<tr>
<th>Facility Location</th>
<th>Year Opened</th>
<th>Construction Cost</th>
<th>Number of Beds</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Texas Baptist, University&lt;sup&gt;†&lt;/sup&gt; Marshall, Texas</td>
<td>2014</td>
<td>$20,000,000</td>
<td>368</td>
</tr>
<tr>
<td>Texas A&amp;M University College Station, Texas</td>
<td>2013</td>
<td>$43,000,000</td>
<td>416</td>
</tr>
<tr>
<td>Edison State College&lt;sup&gt;†&lt;/sup&gt; Ft. Myers, Florida</td>
<td>2012</td>
<td>$26,300,000</td>
<td>408</td>
</tr>
<tr>
<td>Texas A&amp;M University College Station, Texas</td>
<td>2011</td>
<td>$22,900,000</td>
<td>576</td>
</tr>
<tr>
<td>Northeast Texas Community College Mt. Pleasant, Texas</td>
<td>2011</td>
<td>$5,800,000</td>
<td>112</td>
</tr>
<tr>
<td>Texas A&amp;M University College Station, Texas</td>
<td>2010</td>
<td>$21,400,000</td>
<td>276</td>
</tr>
<tr>
<td>Texas A&amp;M University College Station, Texas</td>
<td>2010</td>
<td>$27,600,000</td>
<td>428</td>
</tr>
<tr>
<td>Midwestern State University&lt;sup&gt;†&lt;/sup&gt; Wichita Falls, Texas</td>
<td>2009</td>
<td>$20,600,000</td>
<td>276</td>
</tr>
<tr>
<td>Facility Location</td>
<td>Year Opened</td>
<td>Construction Cost</td>
<td>Number of Beds</td>
</tr>
<tr>
<td>-------------------</td>
<td>------------</td>
<td>-------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Nicholls State University† Thibodaux, Louisiana</td>
<td>2008</td>
<td>$35,450,000</td>
<td>606</td>
</tr>
<tr>
<td>University of Central Missouri Warrensburg, Missouri</td>
<td>2008</td>
<td>$13,579,000</td>
<td>360</td>
</tr>
<tr>
<td>Schreiner University† Kerrville, Texas</td>
<td>2007</td>
<td>$4,700,000</td>
<td>110</td>
</tr>
<tr>
<td>Northern Illinois University‡ DeKalb, Illinois</td>
<td>2007</td>
<td>$16,200,000</td>
<td>240</td>
</tr>
<tr>
<td>Missouri University of Science and Technology St. Joseph, Missouri</td>
<td>2007</td>
<td>$13,000,000</td>
<td>400</td>
</tr>
<tr>
<td>Louisiana Tech University Ruston, Louisiana</td>
<td>2007</td>
<td>$15,863,586</td>
<td>432</td>
</tr>
<tr>
<td>Eastern New Mexico University† Portales, New Mexico</td>
<td>2007</td>
<td>$11,597,400</td>
<td>267</td>
</tr>
<tr>
<td>Eastern New Mexico University† Roswell, New Mexico</td>
<td>2007</td>
<td>$9,831,000</td>
<td>258B</td>
</tr>
<tr>
<td>Southwestern Oklahoma State University Weatherford, Oklahoma</td>
<td>2006</td>
<td>$11,050,000</td>
<td>360</td>
</tr>
<tr>
<td>Elon University† Elon, North Carolina</td>
<td>2006</td>
<td>$22,280,000</td>
<td>516</td>
</tr>
<tr>
<td>Stetson University† Deland, Florida</td>
<td>2006</td>
<td>$11,880,000</td>
<td>338</td>
</tr>
<tr>
<td>Western Texas College† Snyder, Texas</td>
<td>2006</td>
<td>$2,550,000</td>
<td>150</td>
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<tr>
<td>Elon University† Elon, North Carolina</td>
<td>2006</td>
<td>$19,300,000</td>
<td>516</td>
</tr>
<tr>
<td>Harris-Stowe State College† St. Louis, Missouri</td>
<td>2006</td>
<td>$12,000,000</td>
<td>237</td>
</tr>
<tr>
<td>Texas A&amp;M University – Kingsville Kingsville, Texas</td>
<td>2005</td>
<td>$10,700,000</td>
<td>360</td>
</tr>
<tr>
<td>South Arkansas, University† Magnolia, Arkansas</td>
<td>2004</td>
<td>$8,500,000</td>
<td>264</td>
</tr>
<tr>
<td>Nicholls State University† Thibodaux, Louisiana</td>
<td>2004</td>
<td>$12,000,000</td>
<td>408</td>
</tr>
<tr>
<td>University of Oklahoma‡ Norman, Oklahoma thru 2006</td>
<td>2006</td>
<td>$42,000,000</td>
<td>1152</td>
</tr>
<tr>
<td>Philander Smith College‡ Little Rock, Arkansas</td>
<td>2003</td>
<td>$4,250,000</td>
<td>264</td>
</tr>
<tr>
<td>Arizona State University West‡ Phoenix, Arizona</td>
<td>2003</td>
<td>$8,750,000</td>
<td>400</td>
</tr>
<tr>
<td>Midwestern State University† Wichita Falls, Texas</td>
<td>2003</td>
<td>$8,800,400</td>
<td>336</td>
</tr>
</tbody>
</table>

† Indicates project was built or is being built directly for a College or University on its campus.

Total Student Housing Beds 10,834 (leased by the bed exclusively)
Total approximate Hard Costs $482,000,000
The Development Agreement

The Borrower will enter into the Development Agreement with the Developer setting forth the terms and conditions of the design, development, and construction of the Series 2014 Project, including a [lump sum/guaranteed maximum price/fixed price] of not exceeding $_________________ for which the Developer will construct or cause the construction and completion of the Series 2014 Project. The Developer has obtained all permits and approvals required in connection with the construction of the Series 2014 Project.

The Developer will have no obligation to make payments on the Series 2014 Bonds. However, the obligations of the Borrower under the Ground Sublease to construct the Series 2014 Project and to provide alternative housing to students who have executed leases with respect to the Series 2014 Project to the extent the Series 2014 Project is not completed on schedule will be supported by the Developer’s contractual agreement to pay liquidated damages to the Borrower that are calculated to reimburse it for any costs incurred associated with providing the temporary alternative housing.

The Developer will agree to pay any and all costs in excess of the guaranteed maximum price of the General Construction Contract that are not due to change orders initiated by the University or excused delays.

The General Contractor and the General Construction Contract

The Developer and the General Contractor have entered into a construction contract (the "General Construction Contract") dated ________________ ____, 2014, pursuant to which the General Contractor has agreed to construct the Series 2014 Project. The General Construction Contract has a [lump sum/guaranteed maximum price/fixed price] of not exceeding $______________./The Developer has identified the General Contractor as the general contractor for the Series 2014 Project; however, the Developer and the General Contractor have not, as yet, entered into a construction contract (the "General Construction Contract"). The Developer and the General Contractor anticipate that the General Construction Contract will have a [lump sum/guaranteed maximum price/fixed price] of not exceeding $_____________________, and the General Contractor will agree to pay any and all costs in excess thereof that are not due to change orders initiated by the University.

The General Contractor’s headquarters are in _________________, ______________. The General Contractor is a general contractor licensed in the State, commenced business in _____________, and has advised the Borrower that during the past five (5) years it has served or is serving as general contractor for _______________ (_____) collegiate projects having an aggregate construction cost in excess of $______________. These projects include the following colleges/universities as clients:

[The General Construction Contract [contains/will contain] a liquidated damages provision that requires the General Contractor to provide or to pay for alternative housing to students who have executed leases with respect to the Series 2014 Project to the extent the Series 2014 Project is not completed on schedule.]

The Architect and the Architect’s Agreement

The Developer has entered into an agreement (the "Architect’s Agreement") with Pierce, Goodwin, Alexander & Linville, LLC, Boca Raton, Florida (the "Architect"), dated ________________________, relating to the Series 2014 Project. The Architect is a Texas limited liability company that is licensed in the State of Florida. The Architect will be responsible for the design and preparation of plans including construction drawings and required revisions, and cooperating with the General Contractor and Developer to meet the timing and financial constraints of the Series 2014 Project. The Architect commenced business in 1946, and has advised the Borrower that during the past five (5) years it has served or is serving as architect for approximately _______________ (_____) student housing projects having an aggregate construction cost of approximately $______________. These student housing projects were and are for the following colleges and universities [update]:

† In progress
ASSIGNMENT OF CONTRACTS AND AGREEMENTS

The Borrower will, as security for the obligations of the Borrower to the Issuer under Loan Agreement and the Series 2014 Notes and subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in all of its right, title, and interest in and to the Development Agreement, the General Construction Contract, the Architect’s Agreement, and all other contracts and agreements relating to the development, design, or construction of the Series 2014 Project. In the event of a default by the Borrower under the Loan Agreement, the Trustee will be entitled to enforce performance of the Development Agreement, but will not be required to perform the obligations of the Borrower as set forth in such contract. In the event of a default by the Borrower under the Loan Agreement and a default by the Developer under the Development Agreement, the Trustee will be entitled to enforce performance of the General Construction Contract and the Architect’s Agreement, but, unless the Trustee chooses to enforce performance of the General Construction Contract, will not be required to perform the obligations of the Developer as set forth in such contracts.

THE MANAGER

General

The Manager is a Texas limited liability company formed in 2012 for the express purpose of providing property management services to the higher education industry. Principals of the Manager have previously managed a portfolio of sixteen (16) projects comprising eight thousand (8,000) beds, located across the South and Midwest. As of the present date, the Manager manages (or has been selected to manage) 2,165 private beds of housing on four (4) separate collegiate campuses (including the Series 2014 Project). The Manager was selected to manage the Series 2014 Project as a result of an ITN (Invitation to Negotiate) request made by the University. The Manager is headquartered in Irving, Texas, and has on-site property managers at each student housing development location as well as regional management supervision.

Key Personnel

A brief description of the education and professional background of the employees of the Manager having primary responsibility for the management of the Series 2014 Project follows:

Rafael Figueroa, President. Mr. Figueroa has in excess of thirty-five (35) years of diverse development, operations, and marketing experience with regional and national real estate firms. He has experience in student housing planning, development, and management and is involved in the financial and investment analysis aspects of the industry. His experience encompasses providing strategic master planning, market research, and development for several universities, and specifically includes over 20,000 student housing beds.

Mr. Figueroa was most recently associated with a national multi-family development firm where he established and led the on-campus housing development division of the company. His other experience includes serving in senior leadership positions at Sallie Mae and North Carolina State University.

Mr. Figueroa received his Masters in Land Economics and Real Estate from Texas A&M University.

Charla Maxadon, Executive Vice President and Chief Executive Officer. Ms. Maxadon has in excess of twenty-five (25) years of finance, accounting, and management experience in real estate, hospitality, and the public sector. Her real estate background has included commercial office, mixed-use, residential, and multi-family, with recent emphasis in student housing planning, development, and management. While in the public sector, Ms. Maxadon oversaw the operations and budgets for the Office of Administration, the Office of Public Works, the Office of the City Engineer, the Office of Water and Sewerage, the Office of Environmental Affairs, and the Property Management Office of the City of Shreveport, Louisiana.
Ms. Maxedon was most recently associated with an international hospitality organization, responsible for capital financial planning and analysis for the consolidated corporation and its 150+ subsidiaries.

Ms. Maxedon received her Bachelor of Science degree in Accounting from the College of Business Administration at Louisiana State University.

Lyndsey Johnson, Vice President Marketing/Leasing and Sales. Ms. Johnson directs property marketing for the Manager. She has spent her career in the A/E/C industry with extensive experience creating successful public relations strategies, marketing campaigns, and leasing plans. Her experience with media coordination and major groundbreaking events is very valuable to new developments.

Ms. Johnson received her Bachelor of Science degree in Marketing from the University of Phoenix.

Sara Groat, Regional Director of Property Operations and Residence Life. Ms. Groat is a management professional with experience in student affairs including student life and student housing. She is responsible for overseeing the day-to-day operations at Servitas-managed properties, vendor relations, and residential life.

Ms. Groat earned her Bachelor of Arts degree in Student Affairs and her Masters of Administrative Science and Student Affairs, Counseling, from Saginaw Valley State University.

Management Agreement

The Borrower intends to engage the Manager to manage and maintain the Series 2014 Project pursuant to a Management Agreement (the “Management Agreement”). Under the Management Agreement, the Manager will be responsible for the payment of operating expenses and the collection and deposit of rent into an account, which the Trustee will withdraw on a daily basis for the payment of indebtedness for the Series 2014 Project. In addition to these duties, the Manager will assure proper scheduled maintenance of the Series 2014 Project, including daily, monthly, and annual maintenance requirements.

The Manager’s responsibilities under the Management Agreement will include hiring, training, and overseeing the on-site manager, one assistant manager, and one on-site maintenance supervisor. The Manager will agree to manage, operate, and maintain the Series 2014 Project in compliance with the standards, rules, and procedures outlined within the Ground Sublease. In connection with the management, operation, and maintenance of the Series 2014 Project, the Manager will be required to provide, or cause to be provided, and be responsible for, among other things, (i) the preparation of a marketing plan for the Series 2014 Project and the supervision of all advertising layouts, brochures, campaigns, and model apartments; (ii) the preparation on behalf of, and with the approval of, the Borrower of the Series 2014 Project’s operating budget describing in detail all of the revenue and expenses entailed in the operation and maintenance of the Series 2014 Project and the submission of the same to the Advisory Committee of the Borrower for their approval; (iii) the preparation on behalf of, and with the approval of, the Borrower of a capital budget describing the source and use of funds necessary or appropriate to repair, replace, refurbish, remodel, or rehabilitate the Series 2014 Project or any of its capital components and the submission of the same to the Borrower and the University for their approval; (iv) the implementation of the marketing program, the operating budget, and capital budget; and (v) the collection of all rents and other charges due for services provided in connection with the use or occupancy of the Series 2014 Project.

The Manager, in fulfilling its duties and obligations under the Management Agreement, will agree to operate, manage, and lease the Series 2014 Project in the same manner as is customary and usual in the operation, management, and leasing of comparable student residential facilities and is obligated to provide such services as are customarily provided by operators of such complexes of comparable class and standing as the Series 2014 Project.

Except for staff provided by the University to address residential life needs for the resident students, all employees necessary or appropriate to the implementation of the terms of the Management Agreement will be employed by the Manager, and will be under the control and supervision of the Manager.

Termination

The Management Agreement will take effect on the date of its execution and will have an initial term of [ ] years, unless terminated earlier in accordance with the provisions thereof. The Management Agreement may be terminated (i) in the event a petition in bankruptcy is filed by or against either the Borrower or
the Manager or (ii) in the event either makes an assignment for the benefit of creditors or takes advantage of any insolvency act, by the other party, by the Borrower or the Manager by written notice to the other party in the event that the other party shall breach its obligations, duties, or covenants under the Management Agreement and the failure of such other party to effect a cure to the satisfaction of the non-breaching party within ninety (90) days of the receipt of the notice.

Management Fee

The management fee will be an annual fee of four percent (4%) of rental revenue and other income. Twenty-five percent (25%) of the management fee will be paid on a monthly basis, and the remaining seventy-five percent (75%) will be payable in annual installments in arrears on or about ______________________ of each year provided (i) the Fixed Charges Coverage Ratio for the most recently ended annual period, based on the annual financial statements shall have been at least 1.20, (ii) no payment default on the Series 2014 Bonds shall have occurred or shall be continuing, and (iii) all amounts withdrawn from the Debt Service Reserve Fund to pay Debt Service Payments on the Bonds shall have been reimbursed in full. If all of such conditions are not met, the management fee will accrue and be deferred until the first annual period for which they are met. No interest will be paid with respect to deferred management fees.

THE UNIVERSITY

General

The University is a state university existing under the constitution and the laws of Florida. It was founded in 1969 and its existence is currently codified in Section 1000.21, Florida Statutes. The University’s main (Modesto A. Maidique) campus (the “MMC”) is located in the city of Miami, Florida. The BBC is located in the city of North Miami, Florida, approximately twenty-six (26) miles from the MMC.

The University is Miami’s first and only public research university, offering bachelor, master, and doctorate degrees.

Designated as an institution with high research activity by the Carnegie Foundation, the University emphasizes research as a major component of its mission. The College of Arts & Sciences and the College of Engineering & Computing, are just two of many colleges, schools, and centers that are part of the University’s research initiatives.

Enrollment

Student enrollment for fall of 2013 is approximately 52,980, which is a 5.13% increase over the 2012-2013 academic year. Entering freshman enrollment in the fall of 2013 increased 13.43% over the fall of 2012. The following tables shows fall student enrollment at the University for the last five (5) years.

5-Year University-wide Fall Enrollment

<table>
<thead>
<tr>
<th>Term</th>
<th>Undergrad</th>
<th>Grad</th>
<th>Non-degree</th>
<th>Grand total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fall 2009</td>
<td>30,928</td>
<td>7,299</td>
<td>2,228</td>
<td>40,455</td>
</tr>
<tr>
<td>Fall 2010</td>
<td>32,901</td>
<td>7,897</td>
<td>3,212</td>
<td>44,010</td>
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<tr>
<td>Fall 2011</td>
<td>34,969</td>
<td>8,289</td>
<td>4,708</td>
<td>47,966</td>
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<td>Fall 2012</td>
<td>36,217</td>
<td>8,414</td>
<td>5,763</td>
<td>50,394</td>
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<tr>
<td>Fall 2013</td>
<td>38,217</td>
<td>8,317</td>
<td>6,446</td>
<td>52,980</td>
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</table>

<table>
<thead>
<tr>
<th>Change from previous semester</th>
<th>Undergrad</th>
<th>Grad</th>
<th>Non-degree</th>
<th>Overall</th>
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</thead>
<tbody>
<tr>
<td>Fall 2009</td>
<td>6.38%</td>
<td>8.19%</td>
<td>44.17%</td>
<td>8.79%</td>
</tr>
<tr>
<td>Fall 2010</td>
<td>6.29%</td>
<td>4.96%</td>
<td>46.58%</td>
<td>8.99%</td>
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<tr>
<td>Fall 2011</td>
<td>5.52%</td>
<td>-1.15%</td>
<td>11.85%</td>
<td>5.13%</td>
</tr>
<tr>
<td>Fall 2012</td>
<td>3.57%</td>
<td>1.51%</td>
<td>22.41%</td>
<td>5.06%</td>
</tr>
<tr>
<td>Fall 2013</td>
<td>5.52%</td>
<td>-1.15%</td>
<td>11.85%</td>
<td>5.13%</td>
</tr>
</tbody>
</table>

5-Year Biscayne Bay Campus Fall Enrollment by percent of courses taken at BBC

<table>
<thead>
<tr>
<th>Percent of Courses taken at BBC</th>
<th>Fall 2009</th>
<th>Fall 2010</th>
<th>Fall 2011</th>
<th>Fall 2012</th>
<th>Fall 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% taken at BBC</td>
<td>2,486</td>
<td>2,635</td>
<td>2,298</td>
<td>2,089</td>
<td>1,914</td>
</tr>
<tr>
<td>More than 50% taken at BBC</td>
<td>1,219</td>
<td>1,340</td>
<td>1,473</td>
<td>1,663</td>
<td>1,770</td>
</tr>
</tbody>
</table>
Changes in enrollment: Declines in enrollment at the BBC after 2009 relate to reduced course listings by 3 colleges (Business, Nursing and Architecture + The Arts) which are headquartered at the MMC. The colleges headquartered at the BBC (Hospitality & Tourism Management, Journalism & Mass Communications) and the general education courses offered by Arts & Sciences have experienced an increase in credit hour enrollment (see Fall 2013 enrollment headcount) in the fall of 2013.

**Academic Programs at BBC**

Both general education (lower division) and upper division courses are listed in the BBC course catalog. The following undergraduate and graduate degree programs can be completed in their entirety at the BBC:

- Hospitality Management B.S., M.S.
- Mass Communications B.S., M.S.
- Creative Writing M.F.A.
- Psychology B.A.
- Foreign-Educated MD to BSN

Additionally, degree programs for which the majority of courses are offered at the BBC are:

- International Relations B.A.
- Liberal Studies B.A.
- History B.A.
- Marine Biology B.S.
- Criminal Justice B.S.
- English M.A.
- Biology Ph.D.

**Students**

**Tuition, Fees, and Room and Board**

**Housing**

Current housing at the University consists of 3,456 beds in eight (8) on-campus residence facilities which comprise the university housing system. One of those facilities, Bay Vista Housing is currently the only student housing facility at the BBC. Bay Vista Housing is scheduled to be taken out of circulation in May 2014 for exclusive use by RCL Productions, LLC, a unit of Royal Caribbean Cruises Limited (RCL), under a 40-year license agreement which may be extended by for up to 20 more years Bay Vista Housing is currently configured for 274 rentable beds.
See tables in **EXHIBIT “A”** for detailed data on the University’s Housing System’s Housing Facilities and Rentable Bed Counts, 5 Year Occupancy Rates and Current Rental Rates.

The University does not restrict student residents’ choice of campus with regard to housing. Students are free to apply for and reside in the student housing facility of their choice regardless of campus subject to availability of units; however, because the BBC and the MMC are approximately 26 miles and forty (40) minutes (by car) apart, [the Borrower does not believe/neither the Borrower nor the Manager believes] that it is realistic to expect that a substantial number of University students all of whose classes are at the MMC will choose to live in the Series 2014 Project.

### Shuttle Service

**Golden Panther Express Shuttle**

The Golden Panther Express Shuttle provides an alternative to driving between the MMC and the BBC. The shuttle departs each campus every 10 - 40 minutes (depending on the time of day) between 6:45AM and midnight from Monday through Thursday and between 6:45 AM and 6:50 PM on Friday. The distance between campuses is 26 miles and the cost to students for a one way trip is $2.50.

**BBC Housing Shuttle**

The BBC Housing Shuttle provides transportation between the BBC and the Aventura Mall. This service runs from 7:00pm to 12:00am on Wednesdays and Saturdays during the spring and fall semesters. As of April 30, 2014 this shuttle service will be suspended while the new housing facility at the BBC is being built. This service is free for FIU students living in on-campus housing.

**City of North Miami Shuttle Bus**

This free shuttle bus is operated by the City of North Miami has between 19 and 28 stops on each of 4 routes. Stops are primarily at local restaurants and grocery stores, and includes a loop into the BBC.

See “**THE SERIES 2014 PROJECT - Existing On-Campus Housing**” in **APPENDIX “A”** hereto.

### Campus Amenities

**The Wolfe University Center (WUC)**

Currently there are four restaurants in the Wolfe University Center at the BBC: Bay Café, Bistro Subs, Grille Works and Moe’s Southwest Grill. As it is anticipated that the two projects combined will likely result in approximately 800-1000 residents living on the BBC, the University’s Office of Business Services is re-evaluating the BBC’s food service needs.

The Wolfe University Center is home to a Barnes & Noble Campus Bookstore, open daily except Sundays, a game room, a computer lab and the offices of Campus Life, student organizations and the Homecoming Council. Other features are:

- Variety of meeting rooms, a ballroom, and theater
- ATM, bank, business center and convenience store
- An in-house caterer
- A/V equipment catalog and wireless access
- On-site Ropes Course
- Recreational areas such as tennis courts, soccer field, Olympic swimming pool and gym.

### No Liability With Respect to Payment of the Series 2014 Bonds

The University will not have any obligation, express or implied, with respect to payment of the principal of, or the premium, if any, or interest on, the Series 2014 Bonds, and the University will not be
responsible or liable, expressly or implicitly, for any obligations of any other party to any of the Bond Documents.

THE OPERATING AGREEMENT

THE GROUND SUBLEASE

Pursuant to the Ground Sublease, the Ground Sublessor has subleased the Property to the Borrower for a term of forty (40) years, subject to certain termination rights provided therein. The annual rental payable under the Ground Sublease will be equal to the Net Available Cash Flow. Net Available Cash Flow will equal the amount transferred from time to time to the Surplus Fund created under the Indenture.
MARKET STUDY

Attached hereto as APPENDIX “B” is a student housing market study (the “Market Study”) dated [April] __, 2014, prepared by Alvarez & Marsal on behalf of the Borrower. The conclusions and findings contained in the Market Study are based upon assumptions about the outcome of future events. There can be no assurance that such projections will approximate actual results, and there is no assurance that such projections will be achieved. See “CERTAIN BONDBOLDERS’ RISKS - Actual Results May Differ from Market Study and Cash Flow Forecast” and “- Forward Looking Statements.” For discussion of the assumptions and methodology used in arriving at the conclusions and findings, see the Market Study which should be read in its entirety. Alvarez & Marsal has consented to the use of the Market Study in this Official Statement.

CASH FLOW FORECAST

Attached hereto as APPENDIX “C” is a Cash Flow Forecast (the “Cash Flow Forecast”) relating to the Series 2014 Project’s ability to generate revenues from operations sufficient to pay principal of and interest on the Series 2014 Bonds for each of the years ending [June 30], [2016] through [2025]. The Cash Flow Forecast has been prepared by the Developer based on operating budgets formulated by the Manager. None of the Issuer, the University, or the Borrower makes any representations with respect to the Cash Flow Forecast.
The Cash Flow Forecast assumes that the Series 2014 Bonds will be issued in the aggregate principal amount of $[Amount of Bonds] and bear interest at an average interest rate of approximately ______%. The Debt Service Reserve Fund is assumed to be gross funded and is assumed to bear interest at ______% with investment earnings thereon available to pay debt service after completion of the Series 2014 Project. The Construction Fund and the Capitalized Interest Account will be net funded and are assumed to bear interest at ______%.

The [2016] through [2025] operating forecasts are based on the operating budgets prepared by the Manager in consultation with the University and are based on certain assumptions relating to the Series 2014 Project as summarized herein. The [2015] revenues associated with the operation of [618] beds of housing are based on the rental rates outlined in the table below, assuming a 95% occupancy rate during the academic term, and a 35% occupancy rate for the summer term. The [2016] through [2024] operating forecasts assume a 3% annual growth rate of the [2015] budgeted monthly rental rates per bed.

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Number of Units</th>
<th>Beds per Unit</th>
<th>Number of Beds</th>
<th>2015-16 Semester Rents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Four-bedroom, two bathroom</td>
<td>80</td>
<td>4</td>
<td>320</td>
<td></td>
</tr>
<tr>
<td>Two-bedroom, two bathroom</td>
<td>128</td>
<td>2</td>
<td>256</td>
<td></td>
</tr>
<tr>
<td>Studio</td>
<td>40</td>
<td>1</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>One-bedroom, one-bathroom (staff)</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>250</strong></td>
<td></td>
<td><strong>618</strong></td>
<td></td>
</tr>
</tbody>
</table>

Expenses for the Series 2014 Project are based on a budget prepared by the [Manager] and include annual deposits as required by the Indenture. Expenses, including deposits to the Repair and Replacement Fund, have been projected to grow annually at a rate of 3%.

The achievement of any financial forecast is dependent upon future events, the occurrence of which cannot be assured. Therefore, the actual results achieved may vary from the Cash Flow Forecast. Such variation could be material. See “CERTAIN BONDBORERS’ RISKS - Actual Results May Differ from Market Study and Cash Flow Forecast” and “- Forward Looking Statements.”

LITIGATION

The Issuer

There is no litigation now pending or threatened against the Issuer, of which the Issuer has knowledge, that restrains or enjoins the issuance or delivery of the Series 2014 Bonds or questions or affects the validity of the Series 2014 Bonds or the proceedings and authority under which they are to be issued. To the Issuer’s knowledge, neither the creation, organization, or existence of the Issuer, nor the title of the present members or other officers of the Issuer to their respective offices, is being contested or questioned. There is no litigation now pending or threatened against the Issuer, of which the Issuer has knowledge, that in any manner questions the right of the Issuer to enter into the Indenture, the Loan Agreement, the Leasehold Mortgage, the Security Agreement, or the Assignment of Contracts and Agreements or to secure the Series 2014 Bonds in the manner provided in the Indenture.

The Borrower

There is no litigation now pending or threatened against the Borrower, of which the Borrower has knowledge, that in any manner questions the right of the Borrower to enter into or perform its obligations under the Loan Agreement, the Series 2014 Notes, the Leasehold Mortgage, the Security Agreement, or the Assignment of Contracts and Agreements or that individually or in the aggregate would adversely affect the operations of the Borrower, financial or otherwise.

CONFLICTS OF INTEREST; RELATIONSHIPS

[Describe relationship between Servitas and Servitas Management Group]
TAX MATTERS

Series 2014A Bonds

General. The Code establishes certain requirements which must be met subsequent to the issuance of the Series 2014A Bonds in order that interest on the Series 2014A Bonds be and remain excluded from gross income for purposes of federal income taxation. Non-compliance may cause interest on the Series 2014A Bonds to be included in federal gross income retroactive to the date of issuance of the Series 2014A Bonds, regardless of the date on which such non-compliance occurs or is ascertained. These requirements include, but are not limited to, provisions which prescribe yield and other limits within which the proceeds of the Series 2014A Bonds and the other amounts are to be invested and require that certain investment earnings on the foregoing must be rebated on a periodic basis to the Treasury Department of the United States. The Issuer has covenanted in the Indenture and the Borrower has covenanted in the Loan Agreement to comply with such requirements in order to maintain the exclusion from federal gross income for federal income tax purposes of the interest on the Series 2014A Bonds.

In the opinion of Co-Bond Counsel, assuming compliance with certain covenants, under existing laws, regulations, judicial decisions and rulings, interest on the Series 2014A Bonds is excluded from gross income for purposes of federal income taxation. Interest on the Series 2014A Bonds is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals or corporations; however, interest on the Series 2014A Bonds may be subject to the federal alternative minimum tax when any Series 2014A Bond is held by a corporation. The federal alternative minimum taxable income of a corporation must be increased by seventy-five percent (75%) of the excess of such corporation’s adjusted current earnings over its alternative minimum taxable income (before this adjustment and the alternative tax net operating loss deduction). “Adjusted Current Earnings” will include interest on the Series 2014A Bonds.

Except as described above, Co-Bond Counsel will express no opinion regarding other federal income tax consequences resulting from the ownership of, receipt or accrual of interest on, or disposition of Series 2014A Bonds. Prospective purchasers of Series 2014A Bonds should be aware that the ownership of Series 2014A Bonds may result in collateral federal income tax consequences, including (i) the denial of a deduction for interest on indebtedness incurred or continued to purchase or carry Series 2014A Bonds; (ii) the reduction of the loss reserve deduction for property and casualty insurance companies by fifteen percent (15%) of certain items, including interest on the Series 2014A Bonds; (iii) the inclusion of interest on the Series 2014A Bonds in earnings of certain foreign corporations doing business in the United States for purposes of branch profits tax; (iv) the inclusion of interest on the Series 2014A Bonds in passive income subject to federal income taxation of certain Subchapter S corporations with Subchapter C earnings and profits at the close of the taxable year; and (v) the inclusion of interest on the Series 2014A Bonds in “modified adjusted gross income” by recipients of certain Social Security and Railroad Retirement benefits for the purposes of determining whether such benefits are included in gross income for federal income tax purposes.

As to questions of fact material to the opinion of Co-Bond Counsel, Co-Bond Counsel will rely upon representations and covenants made on behalf of the Issuer in the Indenture and the Borrower in the Loan Agreement, certificates of appropriate officers and certificates of public officials (including certifications as to the use of proceeds of the Series 2014A Bonds and of the property financed thereby) and on the opinions being delivered by counsel to the Borrower in connection with the delivery of the Series 2014A Bonds with respect to the Borrower being an organization described in Section 501(c)(3) of the Code, without undertaking to verify the same by independent investigation.

**Tax Treatment of Original Issue Discount.** Under the Code, the difference between the maturity amount of the Series 2014A Bonds maturing on _________ in the years ____ through ____ (collectively, the “Discount Bonds”), and the initial offering price to the public, excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers, at which price a substantial amount of the Discount Bonds of the same maturity and, if applicable, interest rate, was sold is “original issue discount.” Original issue discount will accrue over the term of the Discount Bonds at a constant interest rate compounded periodically. A purchaser who acquires the Discount Bonds in the initial offering at a price equal to the initial offering price thereof to the public will be treated as receiving an amount of interest excludable from gross income for federal income tax purposes equal to the original issue discount accruing during the period he or she holds the Discount Bonds, and will increase his or her adjusted basis in the Discount Bonds by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or disposition of the Discount Bonds. The federal income tax consequences of the purchase, ownership and redemption, sale or other disposition of the Discount Bonds which are not purchased in the initial offering at the initial offering price may be determined according to rules which differ from those above. Bondholders of the Discount Bonds should consult their own tax advisors with respect to the precise determination for federal income tax purposes of interest accrued upon sale, redemption or other disposition of the Discount Bonds and with respect to the state and local tax consequences of owning and disposing of the Discount Bonds.

**Tax Treatment of Bond Premium.** The difference between the principal amount of the Series 2014A Bonds maturing on _______ through and including _______ (collectively, the “Premium Bonds”), and the initial offering price to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of such Premium Bonds of the same maturity and, if applicable, interest rate, was sold constitutes to an initial purchaser amortizable bond premium which is not deductible from gross income for federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of each of the Premium Bonds, which ends on the earlier of the maturity or call date for each of the Premium Bonds which minimizes the yield on such Premium Bonds to the purchaser. For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation in the initial offering is required to decrease such purchaser’s adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Premium Bonds. Bondholders of the Premium Bonds are advised that they should consult with their own tax advisors with respect to the state and local tax consequences of owning such Premium Bonds.

**Information Reporting and Backup Withholding.** Interest paid on tax-exempt bonds such as the Series 2014A Bonds is subject to information reporting to the Internal Revenue Service (the “IRS”) in a manner similar to interest paid on taxable obligations. This reporting requirement does not affect the excludability of interest on the Series 2014A Bonds from gross income for federal income tax purposes. However, in conjunction with that information reporting requirement, the Code subjects certain non-corporate owners of Series 2014A Bonds, under certain circumstances, to “backup withholding” at the rate specified in the Code with respect to payments on the Series 2014A Bonds and proceeds from the sale of Series 2014A Bonds. Any amount so withheld would be refunded or allowed as a credit against the federal income tax of such owner of Series 2014A Bonds. This withholding generally applies if the owner of Bonds (i) fails to furnish the payor such owner’s social security number or other taxpayer identification number (“TIN”), (ii) furnished the payor an incorrect TIN, (iii) fails to properly report interest, dividends, or other “reportable payments” as defined in the Code, or (iv) under certain circumstances, fails to provide the payor or such owner’s securities broker with a certified statement, signed under penalty of perjury, that the TIN provided is correct and that such owner is not subject to backup withholding. Prospective purchasers of the Series 2014A Bonds may also wish to consult with their tax advisors with respect to the need to furnish certain taxpayer information in order to avoid backup withholding.

**Series 2014B Bonds**

INTEREST ON THE SERIES 2014B BONDS IS NOT EXCLUDED FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES. Except as described herein, Co-Bond Counsel will express no opinion as to any other tax consequences regarding the Series 2014B Bonds. Holders of the Series 2014B Bonds should consult their tax advisors with respect to the inclusion of interest on Series 2014B Bonds in gross income for federal income tax purposes.
The following is a summary of certain anticipated United States federal income tax consequences of the purchase, ownership and disposition of the Series 2014B Bonds by certain persons. The summary is based upon provisions of the Code, the regulations promulgated thereunder and rulings and court decisions now in effect, all of which are subject to change. This summary is intended as a general explanatory discussion of the consequences of holding the Series 2014B Bonds, limited to those persons who hold the Series 2014B Bonds as “capital assets” within the meaning of Section 1221 of the Code. This summary does not purport to address all aspects of federal income taxation that may affect particular investors in light of their individual circumstances or certain types of investors subject to special treatment under the federal income tax laws, including but not limited to financial institutions, insurance companies, dealers in securities or currencies, persons holding the Series 2014B Bonds as a hedge against currency risks or as a position in a straddle for tax purposes, foreign investors or persons whose functional currency is not the U.S. dollar. This summary does not address alternative minimum tax issues or the indirect consequences to a holder of an equity interest in a holder of the Series 2014B Bonds. Potential purchasers of the Series 2014B Bonds should consult their own tax advisors in determining the federal, state or local tax consequences to them of the purchase, ownership and disposition of the Series 2014B Bonds.

As stated above, interest on the Series 2014B Bonds is not excluded from gross income for federal income tax purposes. Purchasers other than those who purchase the Series 2014B Bonds in the initial offering at their principal amounts will be subject to federal income tax accounting rules affecting the timing and/or characterization of payments received with respect to such Series 2014B Bonds. Generally, interest paid on the Series 2014B Bonds and recovery of accrued original issue and market discount, if any, will be treated as ordinary income to the Bondholder, and, after adjustment for the foregoing, principal payments will be treated as a return of capital.

**Market Discount.** If a bondholder purchases the Series 2014B Bonds in the secondary market for an amount that is less than the adjusted issue price of the Series 2014B Bonds, and such difference is not considered to be de minimis, then such discount will represent market discount. Absent an election to accrue market discount currently, upon a sale, exchange or other disposition of the Series 2014B Bonds, a portion of any gain will be ordinary income to the extent it represents the amount of any such market discount that was accrued through the date of the sale. In addition, absent an election to accrue market discount currently, the portion of any interest expense intended to carry a market discount bond is limited. Such bondholders should consult their own tax advisors with respect to whether or not they should elect to accrue market discount currently, the determination and treatment of market discount for federal income tax purposes and the state and local tax consequences of owning such Series 2014B Bonds.

**Tax Treatment of Bond Premium for the Series 2014B Bonds.** If a bondholder purchases a Series 2014B Bond at a cost greater than its principal amount, the bondholder may elect to treat such excess as amortizable bond premium. As the tax accounting treatment of bond premium is complex, such bondholders should consult their own tax advisors with respect to whether or not they should elect to amortize such premium under Section 171 of the Code.

**Sale, Exchange or Redemption.** Upon a sale, exchange or redemption of the Series 2014B Bonds, bondholders will generally realize a capital gain or loss on the Series 2014B Bonds equal to the difference between the amount realized on the sale, exchange or retirement (less any accrued qualified stated interest which will be taxable as such) and the bondholder’s adjusted tax basis on the Series 2014B Bonds. The bondholder’s adjusted tax basis for the Series 2014B Bonds is the price such owner pays for the Series 2014B Bonds plus the amount of any original issue discount and market discount previously included in income, reduced on account of any payments received (other than qualified periodic interest payments) and any amortized bond premium. The legal defeasance of the Series 2014B Bonds may result in a deemed sale or exchange of such bonds under certain circumstances, in which event an owner of the Series 2014B Bonds will also recognize taxable gain or loss as described above. Owners of such Series 2014B Bonds should consult their tax advisors as to the federal income tax consequences of such an event.

**Information Reporting and Backup Withholding.** Interest paid on bonds such as the Series 2014B Bonds is subject to information reporting to the IRS. In conjunction with the information reporting requirement, the Code subjects certain non-corporate owners of Series 2014B Bonds, under certain circumstances, to “backup withholding” at the rate specified in the Code with respect to payments on the Series 2014B Bonds and proceeds from the sale of Series 2014B Bonds. This withholding generally applies if the owner of Series 2014B Bonds (i) fails to furnish the payor such owner’s social security number or other taxpayer identification number (“TIN”), (ii) furnished the payor an incorrect TIN, (iii) fails to properly report interest, dividends, or other “reportable payments” as defined in the...
Code, or (iv) under certain circumstances, fails to provide the payor or such owner’s securities broker with a certified statement, signed under penalty of perjury, that the TIN provided is correct and that such owner is not subject to backup withholding. Backup withholding will not apply, however, with respect to certain payments made to holders, including payments to certain exempt recipients and to certain Nonresidents (defined below). Prospective purchasers of the Series 2014B Bonds may also wish to consult with their tax advisors as to their qualification for an exemption from backup withholding and the procedure for obtaining the exemption.

Nonresidents. Under the Code, interest and original issue discount income with respect to the Series 2014B Bonds held by nonresident alien individuals, foreign corporations and other non-United States persons (“Nonresidents”) may not be subject to withholding. Payments on the Series 2014B Bonds to a Nonresident that has no connection with the United States other than holding the Series 2014B Bonds will generally be made free of withholding tax, as long as such holder has complied with certain tax identification and certification requirements. Nonresidents should consult their own tax advisors in determining the federal, state or local tax consequences to them of the purchase, ownership and disposition of the Series 2014B Bonds.

Circular 230 Disclosure

The above discussion was written to support the promotion and marketing of the Series 2014 Bonds and was not intended or written to be used, and cannot be used, by a taxpayer for purposes of avoiding United States federal income tax penalties that may be imposed. Each taxpayer should seek advice based on the taxpayer’s particular circumstances from an independent tax advisor.

UNDERWRITING

Raymond James & Associates, Inc. (the “Underwriter”) is purchasing the Series 2014 Bonds and intends to offer the Series 2014 Bonds to the original purchasers thereof at the offering prices set forth on the cover page of this Official Statement, which offering price may subsequently be changed without any requirement of prior notice. The Underwriter will purchase the Series 2014 Bonds at a price equal to \$____________ (being \$____________, the principal amount thereof[, plus \$__________ of original issue premium[, less \$____________ of Underwriter’s discount[, and less \$____________ of original issue discount]). The Underwriter has reserved the right to permit other securities dealers who are members of the National Association of Securities Dealers, Inc. to assist in selling the Series 2014 Bonds. The Underwriter may offer and sell Series 2014 Bonds to certain dealers at prices lower than the public offering price or otherwise allow concessions to such dealers who may re-allow concessions to other dealers. Any discounts and/or commissions that may be received by such dealers in connection with the sale of the Series 2014 Bonds will be deducted from the Underwriter’s discount.

The Borrower and the Corporation will agree to indemnify the Underwriter against certain civil liabilities, including certain liabilities under federal securities laws. Under existing statutes, regulations, and court decisions, the enforceability of such an agreement to indemnify is uncertain.

RATING OF THE SERIES 2014 BONDS

[Standard & Poor’s Ratings Services (“S&P”)/Moody’s Investors Service, Inc. (“Moody’s”)] has assigned the Series 2014 Bonds the long-term rating of “______.” An explanation of the significance of such rating may be obtained from [S&P/Moody’s]. Such rating reflects only the view of [S&P/Moody’s], and neither the Issuer, the University, nor the Underwriter makes any representation as to the appropriateness thereof.

There is no assurance that such rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely, if in the judgment of [S&P/Moody’s], circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse affect on the market price of the Series 2014 Bonds.

LEGAL MATTERS

All legal matters incidental to the authorization and issuance of the Series 2014 Bonds will be subject to the approving opinion of Bryant Miller Olive P.A., Tampa, Florida, and Manuel Alonso-Poch, P.A., Coral Gables, Florida, Co-Bond Counsel, the form of which is included as APPENDIX “G” hereto. Certain legal matters will be passed on for the Issuer by its counsel, Gerald T. Heffernan, Esquire, Miami, Florida; for the Borrower and the
Corporation by their counsel, Waller Lansden Dortch & Davis, LLP, Nashville, Tennessee; for the University by its counsel, Bryant Miller Olive P.A., Orlando, Florida; and for the Underwriter by its counsel, Haynsworth Sinkler Boyd, P.A., Charleston, South Carolina.

Bond Counsel has been engaged primarily for the purpose of preparing certain legal documents and supporting certificates, reviewing the transcript of proceedings by which the Series 2014 Bonds have been authorized to be issued, and rendering opinions as to the validity and enforceability of the Series 2014 Bonds and to the exemption or lack thereof of interest thereon from income taxation by the United States of America and the State of Florida. While Bond Counsel has assisted in the preparation of this Official Statement and is of the opinion that the statements and descriptions made herein under the headings “SUMMARY STATEMENT - The Series 2014A Bonds,” “SUMMARY STATEMENT - The Series 2014B Bonds,” “THE SERIES 2014 BONDS,” “TAX MATTERS,” “LEGAL MATTERS,” and “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS” in APPENDIX “E” hereto fairly summarize the matters there referred to, such counsel has not been engaged to confirm or verify, has not confirmed or verified, and will express no opinion with respect to the accuracy, completeness, or fairness of any other information contained in this Official Statement (other than the form of legal opinion set forth in APPENDIX “G”).

None of the legal counsel referenced in this Official Statement has (a) participated in the underwriting of the Series 2014 Bonds, (b) provided any advice regarding the creditworthiness of the Series 2014 Bonds, or (c) assisted in determining the value of the collateral for the Series 2014 Bonds upon the occurrence of an event of default. Legal counsel have solely and exclusively opined to those matters which are expressly set forth in their opinions which are attached hereto or which have been delivered in connection herewith and no holder of a Series 2014 Bond shall be authorized or entitled to infer that such legal counsel have rendered opinions beyond those stated in their written opinions or to rely on the participation of counsel in this transaction. Except for negligent errors in their express written opinions, legal counsel shall have no obligations to holders of the Series 2014 Bonds and holders of the Series 2014 Bonds must not rely either expressly or implicitly upon such counsel in determining whether the Series 2014 Bonds represent suitable investments or otherwise meet their creditworthiness and risk tolerance standards.

FINANCIAL ADVISOR TO THE UNIVERSITY

Dunlap & Associates, Inc., Winter Park, Florida, is acting as financial advisor to the University in connection with the issuance and delivery of the Series 2014 Bonds.

CONTINUING DISCLOSURE

The Borrower will agree in a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) between the Borrower and the Trustee for the benefit of the Owners and the Beneficial Owners from time to time of the Series 2014 Bonds, in accordance with, and as the only obligated person with respect to the Series 2014 Bonds under, the Rule, to provide or cause to be provided to each Repository, such financial information and operating data, audited financial statements, and notices, in such manner, as may be required for purposes of the Rule.

Annual Reports

Not later than six (6) months after the end of each Annual Period, commencing with the report for the Annual Period ending [June 30], [2016], the Borrower will be required to post or cause the Dissemination Agent to, post with each Repository an Annual Report. Each Annual Report will be required to contain, or include by reference, the audited financial statements of the Borrower for the prior Annual Period, prepared in accordance with generally accepted accounting principles and may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as described under this subheading; provided that the audited financial statements of the Borrower may be submitted separately from the balance of the Annual Report and later than the date described above for the filing of the Annual Report if they shall not be available by that date. If the audited financial statements of the Borrower shall not be available at the time of filing of the Annual Report, unaudited financial statements will be required to be included in the Annual Report. If the Annual Period shall change, the Borrower will be required to give prompt written notice thereof to the Dissemination Agent and, if the Trustee shall not be the Dissemination Agent, to the Trustee and will be required to post notice of such change in the same manner as is described below under the subheading “Events Disclosure.”
Each Annual Report will also be required to contain audited financial statements relating to the Series 2014 Project and a certificate of the Borrower as to the percentage occupancy of the Series 2014 Project for the applicable academic year and, except for the first Annual Report, for the immediately preceding academic year.

Any or all of the items described above may be included by specific reference to other documents, including official statements of debt issues with respect to which the Borrower is an Obligated Person, that have been posted with each of the Repositories or filed with the SEC. If the document included by reference is a final official statement, it must be available from the MSRB. The Borrower will be required to identify clearly each such other document so included by reference.

**Periodic Financial Information Reporting**

Following the issuance of the Series 2014 Bonds, the Borrower will be required to post, or cause the Dissemination Agent to post, with each Repository the following periodic financial information:

(i) no later than [August] 31, 2014, and thereafter, on or prior to the last day of each calendar month until the Series 2014 Completion Date, a calculation of the cumulative percentage of completion of the Series 2014 Project as of the end of such month, and no later than [March] 31, 2015, and thereafter, on or prior to the last day of each calendar month until the Series 2014 Completion Date, a calculation of the number of beds in the Series 2014 Project as to which leases shall have been entered into with residents;

(ii) within sixty (60) days after the first day of each fall and spring semester until the Series 2014 Bonds shall have been paid in full, (a) a calculation of the percent of beds in the Series 2014 Project that are then occupied and (b) a comparison of the University’s then current year’s applications, acceptances, and matriculations, respectively, as compared to the previous year; and

(iii) within sixty (60) days each December 31, commencing December 31, [2016], until the Series 2014 Bonds shall have been paid in full, unaudited financial statements of the Borrower for the six (6) months then ended prepared by the Borrower in accordance with generally accepted accounting principles for non-profit corporations consistently applied, and such other accounting principles approved by an Accountant.

**Events Disclosure**

The following are the events with respect to the Series 2014 Bonds subject to the provisions of the Rule, which the Borrower must agree to disclose in a timely manner within ten (10) Business Days pursuant to the Rule:

(i) principal and interest payment delinquencies;

(ii) non-payment related defaults, if material;

(iii) unscheduled draws on debt service reserves reflecting financial difficulties;

(iv) unscheduled draws on credit enhancements reflecting financial difficulties;

(v) substitution of credit or liquidity providers, or their failure to perform;

(vi) adverse tax opinions, IRS notices, or events affecting the tax-exempt status of the Series 2014A Bonds;

(vii) modifications to rights of holders of the Series 2014 Bonds, if material;

(viii) optional, contingent, and unscheduled Series 2014 Bond calls, if material, and tender offers;

(ix) defeasances;

(x) release, substitution, or sale of property securing repayment of the Series 2014 Bonds, if material;
(xi)  rating changes;

(xii) tender offers;

(xiii) bankruptcy, insolvency, receivership, or similar event of the Borrower;

(xiv) merger, consolidation, or acquisition of the Borrower, if material; and

(xv) appointment of a successor or additional Trustee, or the change of the name of the Trustee, if material.

The Borrower will be required, within ten (10) Business Days of the occurrence thereof, to provide the Dissemination Agent, and if the Dissemination shall not be the Trustee, the Trustee all information in the format required to satisfy the requirements of the Rule. Further, the Borrower will be required to provide, within ten (10) business days of the occurrence thereof, notice of any failure by the Borrower to post audited financial statements, financial information, and operating data in accordance with the provisions of the Continuing Disclosure Agreement described above under the subheadings “Annual Reports” and “Periodic Financial Information Reporting” with each Repository.

If the Borrower shall deem any of the events enumerated in (ii), (vii), (viii), (x), (xiv), or (xv) of this subheading as not material, it will nonetheless be required to file a notice of the occurrence of such event with the Dissemination Agent, and if the Dissemination shall not be the Trustee, the Trustee and provide an opinion of counsel experienced in federal securities matters to the effect that dissemination of the occurrence of the event deemed not material is not required under the Rule.

Notwithstanding the foregoing, notice of Listed Events described in (iv) and (v) of this subheading will not be required to be posted any earlier than the notice, if any, of the underlying event is given to the Owners of affected Series 2014 Bonds pursuant to the Indenture.

Additional Information

The Borrower will not be obligated to provide additional or more frequent information than is described above. The Borrower may, however, elect to disseminate other information, using the means of dissemination described above or any other means of communication, or include other information in any annual financial information or event disclosure in addition to that required by the Loan Agreement.

Failure to Comply

UNDER NO CIRCUMSTANCES WILL THE BORROWER BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY SERIES 2014 BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE BORROWER WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT DESCRIBED UNDER THIS HEADING, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH WILL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Borrower in observing or performing its obligations described under this heading will comprise a breach of or default under the Loan Agreement for purposes of any other provision thereof.

FORWARD LOOKING STATEMENTS

This Official Statement, including but not limited to the information contained in the Market Study and the Cash Flow Forecast, contains statements relating to future results that are “forward looking statements” as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words “estimate,” “forecast,” “intend,” “expect,” and similar expressions identify forward looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward looking statements. The factors that may cause projected revenues and expenditures to be materially
different from those anticipated include (1) the ability of the Borrower to market the Series 2014 Project, (2) the ability of the Series 2014 Project to maintain substantial occupancy at projected increased rent levels of the Series 2014 Project, (3) the ability of the residents of the Series 2014 Project to meet their financial obligations, (4) lower than anticipated revenues, (5) higher than anticipated operating expenses, (6) litigation, (7) changes in governmental regulation, (8) loss of federal tax-exempt status of the Borrower, (9) loss of local property tax exemption, (10) changes in demographic trends, (11) competition from other residential rental projects, (12) changes in the student housing industry, and (13) general economic conditions. No representation or assurances can be made that Revenues will be generated from the operation of the Series 2014 Project in amounts sufficient to pay maturing principal of and interest on the Series 2014 Bonds.

MISCELLANEOUS

The information set forth herein relating to the Borrower and the Corporation has been furnished by the Borrower.

The information set forth herein relating to the Developer and the Series 2014 Project has been furnished by the Developer.

The information set forth herein regarding the University has been compiled from publicly disseminated statements and was not furnished by the University for use in this Official Statement.

The Issuer has furnished only the information included herein under the headings, “THE ISSUER,” and “LITIGATION - The Issuer.”

Any statements made in this Official Statement involving estimates or matters of opinion, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates or matters of opinion will be realized. Neither this Official Statement nor any statement that may have been made orally or in writing is to be construed as a contract with the owners of the Series 2014 Bonds.

The Issuer and the Borrower have duly authorized the execution, delivery, and distribution of this Official Statement in connection with the offering of the Series 2014 Bonds.

MIAMI-DADE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

By: ________________________________
    Roberto Pelaez, Chairman

NCCD - BISCAYNE PROPERTIES LLC

By: NATIONAL CAMPUS AND COMMUNITY DEVELOPMENT CORPORATION, its sole member

By: ________________________________
    Charles G. Eden, President
APPENDIX “A”

THE SERIES 2014 PROJECT

Description of the Series 2014 Project

The Series 2014 Project will consist of 250 student housing units (618-beds) distributed in a single building on a 5.2 acre site within the central campus of the University. The building will be nine (9) stories, post tension concrete construction. Eighty (80) of the units will be a standard four-bedroom, two-bathroom apartment style configuration, one hundred twenty-eight (128) of the units will be a standard two-bedroom, two-bathroom apartment style configuration, forty (40) of the units will be a standard studio apartment style configuration, and the remaining two (2) units will be a one-bedroom, one-bathroom apartment style configuration.

The four-bedroom, two-bathroom units will contain approximately 1,041 square feet, will be shared by four residents, and will rent for $799 per resident per month. Each resident will have a private bedroom with a bathroom to be shared by one other resident. The two-bedroom, two-bathroom units will contain approximately 653 square feet, will be shared by two residents, and will rent for $899 per resident per month. Each resident will have a private bedroom and private bathroom. The studio units will contain approximately 308 square feet, will be occupied by one resident, and will rent for $920 per month. The one-bedroom, one-bathroom units will contain approximately ________ square feet and will be occupied by one staff member who will not pay rent. Rental units will be furnished with living room and bedroom furnishings. The kitchens will contain a full size refrigerator with ice maker, microwave, dishwasher, and food disposal. Each living room in the units will contain a “panic button” that when activated, will alert campus security of an emergency in that particular unit.

The unit interiors, including hardiplank floors and carpeting, have been designed in a black, white, and gray pallet to allow the student residents to introduce their own color schemes. The furniture finishes are in mixed gray tones with durable laminate finishes on all case goods.

Amenities at the Series 2014 Project will be comprised of an existing adjacent resort-style swimming pool. The Series 2014 Project will consist of approximately 296,910 square feet of gross rentable area with 309 parking spaces. The Series 2014 Project is located adjacent to an existing parking lot serving the remainder of the campus.

Phase I of the Series 2014 Project is scheduled for completion by August 15, 2015, allowing for leasing to students in the fall term of 2015. Phase II of the Series 2014 Project is scheduled for completion by December 15, 2015, allowing for leasing to students for the spring term of 2016.
Existing On-Campus Student Housing

Included below is an overview of the University's existing student housing. Bay Vista Housing is the only student housing at the BBC and will be taken offline after Spring 2014 due to exclusive use by Royal Caribbean Cruises Ltd.

### Housing Facilities and Rentable Bed Counts

<table>
<thead>
<tr>
<th></th>
<th>BVH</th>
<th>EVE</th>
<th>LVN</th>
<th>LVS</th>
<th>PH</th>
<th>PVH</th>
<th>UA</th>
<th>TOW</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bed Double</td>
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<td></td>
<td></td>
<td>92</td>
<td></td>
<td></td>
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<tr>
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<tr>
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<td></td>
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<td></td>
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</tr>
<tr>
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<tr>
<td>Studio</td>
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<td>134</td>
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<td>360</td>
<td>440</td>
<td>396</td>
<td>596</td>
<td>537</td>
<td>481</td>
<td>3,456</td>
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</table>

### 5 Year Occupancy Rates

Note: Panther Hall will be closed for a period of one semester starting Summer 2014 for refurbishment.

<table>
<thead>
<tr>
<th></th>
<th>BVH</th>
<th>EVE</th>
<th>LVN</th>
<th>LVS</th>
<th>PH</th>
<th>PVH</th>
<th>UA</th>
<th>TOW</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Fall 09</td>
<td>68.4%</td>
<td>100.0%</td>
<td>89.2%</td>
<td>96.6%</td>
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<tr>
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<td>91.4%</td>
<td>95.5%</td>
<td>76.0%</td>
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<td>96.7%</td>
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<tr>
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<td>98.6%</td>
<td>97.8%</td>
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<td>95.7%</td>
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<td>98.7%</td>
<td></td>
<td>98.1%</td>
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<td>Fall 13</td>
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</tr>
<tr>
<td>Spring 14</td>
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<td>92.5%</td>
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<td>99.5%</td>
<td>98.9%</td>
<td></td>
<td>99.2%</td>
</tr>
</tbody>
</table>

Key

- **BVH**: Bay Vista Housing
- **EVE**: Everglades Hall
- **LVN**: Lakeview Hall North
- **LVS**: Lakeview Hall South
- **PH**: Panther Hall
- **PVH**: Parkview Hall
- **UA**: University Apartments
- **TOW**: University Towers
**Current Rental Rates**

Note: Bay Vista Housing will not be part of the University’s Housing System after Spring 2014 due to exclusive use by RCL. Panther Hall will be closed for Summer 2014 for refurbishment. Panther Hall, Lakeview Hall North and Lakeview Hall South rates include a mandatory meal plan.

<table>
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<th>2014/2015</th>
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<td>SumA</td>
<td>Fall</td>
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<tr>
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<td>$4,282</td>
<td></td>
<td></td>
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<td>$3,530</td>
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<td><strong>EVE</strong></td>
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<tr>
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<tr>
<td><strong>TOW</strong></td>
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<td></td>
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<td>$3,900</td>
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<td>$1,500</td>
<td>$1,500</td>
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<td>$4,050</td>
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<tr>
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<td>$2,950</td>
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<tr>
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</tr>
<tr>
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<tr>
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<td>$1,250</td>
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<td>$3,350</td>
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<tr>
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<td>$1,500</td>
<td>$1,500</td>
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<td>$4,050</td>
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</table>

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Campus Plan

Included below is a campus plan showing the location of the Series 2014 Project and various other buildings on the BBC.
APPENDIX “B”

MARKET STUDY
APPENDIX “C”

CASH FLOW FORECAST
APPENDIX “D”

DEFINITIONS

Certain words and terms used in this Official Statement are defined herein. In addition to the words and terms defined elsewhere herein, the following words and terms are defined terms in this Official Statement.


“2014A Subaccount of the Capitalized Interest Account” means the subaccount of the Capitalized Interest Account of that name created in the Indenture.

“2014B Account of the Construction Fund” means the Account of the Construction Fund of that name created in the Indenture.


“2014B Subaccount of the Capitalized Interest Account” means the subaccount of the Capitalized Interest Account of that name created in the Indenture.

“Accountant” means an independent certified public accountant or firm of independent certified public accountants (which may be the accountant or firm of accountants retained by the Borrower).

“Accounts” means, collectively, all of the accounts within the Funds created pursuant to the Indenture (each, an “Account”).

“Act” means, collectively, the Constitution of the State, Chapter 159, Parts II and III, Florida Statutes, and other applicable provisions of law, and as the same may be from time to time supplemented and amended.

“Additional Bonds” means any additional parity Bonds authorized to be issued by the Issuer pursuant to the terms and conditions of the Indenture.

“Additional Loan Payments” means the Loan Payments payable by the Borrower to the Issuer pursuant to the Loan Agreement that are described in APPENDIX “E” hereto, “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS,” under the subheading “THE LOAN AGREEMENT - Loan Payments and Other Amounts Payable -- Additional Loan Payments.”

“Additional Notes” means any promissory notes issued by the Borrower in connection with Additional Bonds.

“Additions or Alterations” means modifications, repairs, renewals, improvements, replacements, alterations, additions, enlargements, or expansions in, on, or to the Project, including any and all machinery, furnishings, and equipment therefor.

“Affiliate” means any Person (i) directly or indirectly controlling, controlled by, or under common control with the Borrower or (ii) a majority of the members of the Directing Body of which are members of the Directing Body of the Borrower. For purposes of this definition, control means with respect to: (a) a corporation having stock, the ownership, directly or indirectly, of more than fifty percent (50%) of the securities (as defined in §2(1) of the Securities Act) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the directors of such corporation; (b) a non-profit corporation not having stock, having the power to elect or appoint, directly or indirectly, a majority of the members of the Directing Body of such corporation; or (c) any other entity, the power to direct the management of such entity through the ownership of at least a majority of its voting securities or the right to designate or elect at least a majority of the members of its
Directing Body, by contract or otherwise. For the purposes of this definition, “Directing Body” means with respect to: (x) a corporation having stock, such corporation’s board of directors and owners, directly or indirectly, of more than fifty percent (50%) of the securities (as defined in §2(1) of the Securities Act) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the directors of such corporation (both of which groups shall be considered a Directing Body); (y) a non-profit corporation not having stock, such corporation’s members if the members have complete discretion to elect the corporation’s directors, or the corporation’s directors if the corporation’s members do not have such discretion; or (z) any other entity, its governing body or board. For the purposes of this definition, all references to directors and members shall be deemed to include all entities performing the function of directors or members however denominated.

“Annual Budget” means the annual budget of the Borrower required by the Loan Agreement.

“Annual Debt Service” means the amount required to pay all principal of and interest on a Series of Bonds in any Bond Year. For purposes of calculating the Annual Debt Service on a Series of Bonds the interest rate borne by which is not fixed to the maturity thereof on any date, for any period during which a Qualified Exchange Agreement shall be in effect, the interest payable on such Series of Bonds shall be deemed to be equal to the fixed periodic sum payable by the Borrower under such Qualified Exchange Agreement plus any fees paid to any credit enhancer and/or remarketing agent in connection therewith and for any period during which such a Qualified Exchange Agreement shall not be in effect, such Series of Bonds shall be treated as if it bears interest at the 25-year Revenue Bond Index as published by The Bond Buyer on the date of determination[ plus fifty-hundredths percent (0.50%) per annum].

“Annual Period” means the twelve (12) month period commencing on July 1 of each calendar year and ending on June 30 of the immediately succeeding calendar year.

“Assignment of Contracts and Agreements,” with respect to the Series 2014 Bonds, means the Assignment of Contracts and Agreements dated as of _________________ 1, 2014, by the Borrower in favor of the Trustee, as the same may be amended and/or supplemented from time to time as permitted by the Indenture.

“Audit Report” means an audit report resulting from an audit conducted by an Accountant in conformity with generally accepted auditing standards prepared in accordance with GAAP.

“Authorized Borrower Representative” means any person at the time designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Trustee, containing the specimen signature of such person and signed on behalf of the Borrower by the President of the Corporation. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

“Authorized Denominations,” with respect to the Series 2014 Bonds, means denominations of Five Thousand Dollars ($5,000) and any multiple thereof (each, an “Authorized Denomination”).

“Authorized Issuer Representative” means any person at the time designated to act on behalf of the Issuer by written certificate furnished to the Borrower and the Trustee, containing the specimen signature of such person and signed on behalf of the Issuer by the Chairman. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

“Basic Loan Payments” means the Loan Payments payable by the Borrower to the Issuer pursuant to the Loan Agreement that are described in APPENDIX “E” hereto, “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS,” under the subheading “THE LOAN AGREEMENT - Loan Payments and Other Amounts Payable -- Basic Loan Payments.”

“Beneficial Owners,” if the Bonds are not held under the Book-Entry System, means, collectively, the Owners and, if the Bonds are held under a Book-Entry System, means, collectively, the Persons in whose names Bonds are recorded as beneficial owners of such Bonds with the Securities Depository (and while DTC is the Securities Depository, in the name of its nominee, Cede & Co.) or a Participant or an Indirect Participant, as the case may be, as established in writing by letter of such persons or entities to the Trustee (each, a “Beneficial Owner”).

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“Bond Counsel” means, collectively, as of the date hereof, Bryant Miller Olive P.A. and Manuel Alonso-Poch, P.A., and thereafter, Independent Counsel nationally recognized as experienced in matters relating to Tax-Exempt Bonds selected by the Issuer.

“Bond Documents,” with respect to the Series 2014 Bonds, means, collectively, the Indenture, the Loan Agreement, the Series 2014 Notes, the Tax Agreement, the Leasehold Mortgage, the Security Agreement, the Assignment of Contracts and Agreements, the Bond Purchase Agreement, the Indemnity Letters, the Ground Sublease, the Development Agreement, the General Construction Contract, the Management Agreement, the Operating Agreement, the Continuing Disclosure Agreement, and the Financing Statements.

“Bond Fund” means the Fund of that name created in the Indenture.

“Bond Payment Dates” means, collectively, the Interest Payment Dates and all dates on which Debt Service Payments shall be payable on or in respect of any of the Bonds according to their terms and the terms of the Indenture, including without limitation, scheduled mandatory sinking fund redemption dates, dates of acceleration of the Bonds pursuant to the Indenture, optional redemption dates, extraordinary optional redemption dates, and stated maturity dates, so long as any Bonds shall be Outstanding (each, a “Bond Payment Date”).

“Bond Purchase Agreement,” with respect to the Series 2014 Bonds, means the Bond Purchase Agreement dated _______________ ____, 2014, among the Issuer, the Borrower and the Corporation, and the Underwriter.

“Bond Register” means the books for the registration of the Bonds and for the registration of the transfer of the Bonds kept and maintained by the Trustee as bond registrar.

“Bond Resolution,” with respect to the Series 2014 Bonds, means the resolution or resolutions adopted by the Issuer authorizing the issuance and sale thereof, the security therefor, and the execution, delivery, and performance of the applicable Issuer Documents.

“Bond Year” means the twelve (12) month period beginning on July 2 of each calendar year and ending on July 1 of the immediately succeeding calendar year.

“Bondholders,” “Bondowners,” or “Owners” means the Persons in whose names any of the Bonds are registered on the Bond Register.

“Bonds” means, collectively, the Series 2014 Bonds and all Additional Bonds (each, a “Bond”).


“Borrower” means NCCD - Biscayne Properties LLC, a single member limited liability company duly organized and existing under the laws of the State of Tennessee, and its successors and assigns.

“Borrower Documents,” with respect to the Series 2014 Bonds, means the Loan Agreement, the Series 2014 Notes, the Tax Agreement, the Leasehold Mortgage, the Security Agreement, the Assignment of Contracts and Agreements, the Bond Purchase Agreement, the Borrower/Corporation Indemnity Letter, the Ground Sublease, the Development Agreement, the Management Agreement, the Operating Agreement, the Continuing Disclosure Agreement, and the Borrower Financing Statement(s).

“Borrower Financing Statement(s),” with respect to the Series 2014 Bonds, means the UCC-1 Financing Statement(s) filed under the Leasehold Mortgage, the Security Agreement, and the Assignment of Contracts and Agreements.

“Building” means those certain buildings and all other facilities and improvements constituting part of the Project and not constituting part of the Equipment that are or will be located on the Property.

“Business Day” means any day other than a Saturday, a Sunday, or a day on which banking institutions in the State or in the state where the Office of the Trustee is located are authorized or obligated by law to close or a day on which the New York Stock Exchange is closed.

“Calculation Date” means the last day of each Bond Year and the date upon which a Series of Bonds shall be Discharged.

“Campus” means the Biscayne Bay Campus of the University located in the City of North Miami, Florida.

“Capitalized Interest” means amounts derived from the proceeds of Bonds deposited in the Capitalized Interest Account to pay interest on Bonds and interest earned on such amounts to the extent that such interest earned is required to be applied to pay interest on Bonds.

“Capitalized Interest Account” means the Account of the Bond Fund of that name created in the Indenture.

“Chairman” means the Chairman of the Issuer. The term “Chairman” shall include the Vice Chairman or the Acting Chairman of the Issuer whenever, by reason of absence, illness, or other reason, the Chairman of the Issuer is unable to act.

“Closing Date,” with respect to a Series of Bonds, means the date of issuance and delivery thereof.

“Code” means the Internal Revenue Code of 1986, as amended. Reference herein to any specific provision of the Code shall be deemed to include a reference to any successor provision or provisions to such provision and to any Regulations issued or proposed under or with respect to such provision or under or with respect to any predecessor provision of the Internal Revenue Code of 1954, as amended, to the extent any of the foregoing is applicable to the Bonds.

“Condemnation Fund” means the Fund of that name created in the Indenture.

“Construction Contracts,” with respect to the Series 2014 Project, means the Development Agreement, the General Construction Contract, and the other contracts, if any, relating to the construction thereof between the Developer, the General Contractor, or the Borrower and construction professionals or suppliers of materials and Equipment.

“Construction Costs,” with respect to the Series 2014 Project, means all Costs of the Project that are properly payable to the appropriate contractors pursuant to the applicable Construction Contracts.

“Construction Fund” means the Fund of that name created in the Indenture.

“Construction Period,” with respect to the Series 2014 Project, means the period between the beginning of construction thereof or the date on which Series 2014 Bonds are first delivered to the Underwriter (whichever is earlier) and the Series 2014 Completion Date.

“Consulting Architect” means the architect or architectural firm at the time employed by the Borrower, acceptable to the Trustee, and designated by written certificate furnished to the Trustee, containing the signature of such person or the signature of a partner or officer of such firm, and signed on behalf of the Borrower by the Authorized Borrower Representative. The Consulting Architect shall be registered and qualified to practice under the laws of the State and shall not be a full-time employee of the Issuer, the Borrower, or the University.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of ____________ 1, 2014, between the Borrower and the Dissemination Agent.

“Corporation” means National Campus and Community Development Corporation, a non-profit corporation duly organized and existing under the laws of the State of Texas, and its successors and assigns.
“Costs of the Project,” with respect to the Series 2014 Project, means those costs and expenses in connection with the acquisition, construction, furnishing, and equipping thereof permitted by the Act to be paid or reimbursed from the proceeds of the Series 2014 Bonds or any Additional Bonds including, but not limited to, the following:

(i)  (a)  the cost of the preparation of Plans and Specifications (including any preliminary study or planning thereof or any aspect thereof), (b)  the cost of acquisition and construction thereof and all construction, acquisition, and installation expenses required to provide utility services or other facilities and all real or personal properties deemed necessary in connection therewith (including development, architectural, engineering, and supervisory services with respect to any of the foregoing), (c)  interest on the Series 2014 Bonds during the applicable Construction Period and for such additional period as the Issuer shall reasonably determine to be necessary for placing the Series 2014 Project in operation, and (d)  any other costs and expenses relating to the acquisition, construction, and placing in service thereof;

(ii)  the purchase price of the Equipment in connection therewith, including all costs incident thereto, payment for labor, services, materials, and supplies used or furnished in site improvement and in the construction thereof, including all costs incident thereto, payment for the cost of the construction, acquisition, and installation of utility services or other facilities in connection therewith, payment for all real and personal property deemed necessary in connection therewith, payment of consulting and development fees in connection therewith, and payment for the miscellaneous expenses incidental to any of the foregoing items including the premium on any surety bond;

(iii)  the fees or out-of-pocket expenses, if any, of those providing services with respect thereto, including, but not limited to, architectural, engineering, development, and supervisory services;

(iv)  any other costs and expenses relating to the Project that constitute costs or expenses for which the Issuer may expend Bond proceeds under the Act, other than Issuance Costs of the Series 2014 Bonds; and

(v)  reimbursement to the Borrower for any costs described in (i), (ii), (iii), and (iv) above paid by it, whether before or after the execution of the Loan Agreement; provided, however, that reimbursement for any expenditures made prior to the execution of the Loan Agreement from the 2014[A] Account of the Construction Fund shall only be permitted for expenditures meeting the requirements of the Regulations, including but not limited to, §1.150-2 of the Regulations.

“County” means Miami-Dade County, Florida.

“CPI Adjustment” shall have the meaning ascribed thereto in the provisions of the Loan Agreement described in APPENDIX “E” hereto, “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS,” under the subheading “THE LOAN AGREEMENT – Destruction and Damage.”

“Debt Service Payment” means, with respect to the Bonds or any Series or Subseries of Bonds on any Bond Payment Date, (i)  the premium, if any, and interest payable on the Bonds or such Series or Subseries of Bonds on such Bond Payment Date, (ii)  the principal payable in respect of the Bonds or such Series or Subseries of Bonds on such Bond Payment Date, and (iii)  the Mandatory Sinking Fund Redemption Requirement, if any, relating to the Bonds or such Series or Subseries of Bonds on such Bond Payment Date (collectively, the “Debt Service Payments”).

“Debt Service Reserve Fund” means the Fund of that name created in the Indenture.

“Debt Service Reserve Requirement,” (i) with respect to the Series 2014A Bonds and any Issue of Additional Bonds that are Tax-Exempt Bonds, at the time of determination, means the least of (a) ten percent (10%) of the stated principal amount thereof (less any original issue discount that exceeds a de minimis amount), (b) one hundred twenty-five percent (125%) of the average Annual Debt Service thereon from the date of calculation to the final maturity thereof, (c) the Maximum Annual Debt Service thereon, or (d) such lesser sum as shall be required by the Code and the Regulations to ensure the exclusion of the interest thereon from the gross income of the Owners thereof for federal income tax purposes; and (ii) with respect to the Bonds, means the sum of the Debt Service Reserve Requirements for each Issue of Bonds Outstanding; provided, however, that the amount of principal due in
any Bond Year shall be determined, in the case of Bonds subject to mandatory sinking fund redemption pursuant to the Indenture hereof and similar provisions in any supplemental indenture, by the principal amount of Bonds to be redeemed by mandatory sinking fund redemption in such Bond Year. Calculation of the Debt Service Reserve Requirement shall be made with respect to each Issue of Bonds that are Tax-Exempt Bonds rather than to any Series of which it is a part.

“Default Condition” means the occurrence of an event or the existence of a condition that, with the lapse of time or with the giving of notice or both, would become an Event of Default.

“Default Rate” means the prime rate charged corporate borrowers by the commercial lending department of the Trustee, if any, or in the absence of such commercial lending department or rate, the rate designated the “Prime Rate” as published each Business Day in The Wall Street Journal, plus two percent (2%) per annum.

“Defaulted Interest” means any interest on any Bond that is due and payable, but that is not punctually paid or duly provided for on any Interest Payment Date.

“Defeasance Obligations” means (i) cash deposits (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in item (ii) below), (ii) to the extent the same are non-callable and non-prepayable, Government Obligations, (iii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, and (iv) Defeased Municipal Obligations.

“Defeased Municipal Obligations” means obligations of state or local government municipal bond issuers that are rated in the highest rating category by S&P and Moody’s, respectively, provision for the payment of the principal of and interest on which shall have been made by deposit with a trustee or escrow agent of (i) noncallable Government Obligations or (ii) evidences of ownership of a proportionate interest in specified noncallable Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, the maturing principal of and interest on such Government Obligations or evidences of ownership, when due and payable, shall provide sufficient money to pay the principal of, redemption premium, if any, and interest on such obligations of state or local government municipal bond issuers.

“Developer” means Servitas, LLC, a limited liability company organized under the laws of the State of Texas, and its successors and assigns.

“Developer Indemnity Letter,” with respect to the Series 2014 Bonds, means the indemnity letter dated ___________________ ____, 2014, from the Developer to the Issuer, the Borrower, and the Underwriter.


“Discharged,” with respect to a Series or a Subseries of Bonds, means that all amounts due thereunder are actually and unconditionally due, if cash is available at the place of payment and no interest accrues thereafter with respect to such Series or Subseries of Bonds.

“Dissemination Agent” means Regions Bank, in its capacity as dissemination agent under the Continuing Disclosure Agreement and its successors and assigns, and the dissemination agent under any successor agreement.

“DTC” means The Depository Trust Company, New York, New York, or any successor Securities Depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among such brokers, dealers, banks, trust companies, clearing corporations, and other organizations.
“Equipment” means the machinery, equipment, furnishings, or other property at any time installed or located on the Property, and substitutions or replacements therefor, all machinery, equipment, or other property that under the terms of the Loan Agreement is to become the property of the Borrower or is to be subjected to the lien of the Security Agreement, and, without limiting the foregoing, all of the property of the Borrower at any time installed or located on the Property together with all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said property and including all trade, domestic, and ornamental fixtures and articles of personal property of every kind and nature whatsoever now or hereafter located in, upon, or under said property or any part thereof and used or usable in connection with any present or future operations of said property, including, without limiting the generality of the foregoing, all heating, air-conditioning, freezing, lighting, laundry, incinerating, and power equipment, gas and electric fixtures, engines, machinery, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications apparatus, safety equipment, boilers, ranges, furnaces, oil burners, or units thereof, appliances, air-cooling and air-conditioning apparatus, washers, dryers, water heaters, mirrors, mantels, vacuum cleaning systems, elevators, escalators, shades, awnings, screens, storm doors, and windows, stoves, wall beds, refrigerating plants, refrigerators, attached cabinets, partitions, ducts, and compressors, rugs and carpets and other floor covering, draperies, furniture and furnishings, together with all building materials and equipment now or hereafter delivered to the property and intended to be installed therein, including but not limited to, lumber, plaster, cement, shingles, roofing, plumbing, fixtures, pipe, lath, wallboard, cabinets, nails, sinks, toilets, furnaces, heaters, brick, tile, water heaters, screens, window frames, glass, doors, flooring, paint, lighting fixtures and unattached refrigerating, and cooking, heating, and ventilating appliances and equipment, together with all additions and accessions thereto and replacements thereof.

“Event of Default” means each of the events specified as such in each of the respective Bond Documents.

“Event of Taxability,” with respect to any Series or Subseries of Tax-Exempt Bonds, means the existence or absence of any circumstances that causes the interest thereon or on any portion thereof to become includable in the gross income of the Owner thereof for federal income tax purposes.


“Expenses,” with respect to the Project, means, for any period, the aggregate of all expenses and expenditures relating thereto, including, without limitation, expenses or expenditures relating to the performance of any obligation of the Borrower under the Bond Documents or to the enforcement of the obligations of other parties to documents executed in connection with the Bond Documents; fees required to be paid to the Manager under the Management Agreement; expenses incurred by the Borrower in connection with the inspection of the Project or the calculation, collection, and payment of the Rebate Amount relating to any Tax-Exempt Bonds as required by federal law; deposits to the Debt Service Reserve Fund or the Repair and Replacement Fund; the repayment of the principal amount of any Indebtedness; and payments made to the Ground Lessor under the Ground Lease, but excluding (i) any expense or expenditure paid with the proceeds of the Bonds or the Net Proceeds of insurance other than business or rental interruption insurance, (ii) any expense or expenditure paid from amounts in the Repair and Replacement Fund that with respect to the Project that is not capitalized, (iii) interest on any Indebtedness to the extent that such interest is payable from the proceeds of such Indebtedness, (iv) any expenses resulting from forgiveness of or the establishment of reserves against Indebtedness of an Affiliate that do not constitute extraordinary expense, (v) losses resulting from any reappraisal, revaluation, or write-down of assets, (vi) any unrealized loss resulting from changes in the value of investment securities, and (vii) any expenses borne by the University under the terms of the Ground Lease or the Operating Agreement.

“Extraordinary Services of the Trustee” and “Extraordinary Expenses of the Trustee” mean all services rendered and all expenses incurred by the Trustee under the Indenture and under the other Bond Documents, including, without limitation, reasonable counsel fees and expenses, other than Ordinary Services of the Trustee and Ordinary Expenses of the Trustee.

“Favorable Opinion of Bond Counsel” means an opinion of Bond Counsel, addressed to the Issuer, upon which the Borrower and the Trustee will be permitted to rely to the effect that the action proposed to be taken is authorized or permitted by the laws of the State and the Bond Documents and will not adversely affect any exclusion from gross income for federal income tax purposes or any exemption from State income taxes, of interest on any Tax-Exempt Bonds.
“Financial Consultant” means a firm of Accountants and/or professional management, marketing, or financial consultants having the skill and experience necessary to render the particular report required that is designated as such in writing by the Borrower. Such firm(s) shall not be, and no member, stockholder, director, officer, or employee of which shall be, an officer or employee of the Issuer, the Borrower, or the University. The reports of the Financial Consultant showing forecast financial performances may be in the form of a forecast of the management of the Borrower that is accompanied by a statement of a Financial Consultant to the effect that such Financial Consultant has reviewed the underlying assumptions and procedures used by management and that such assumptions provide a reasonable basis for the forecast of management.

“Financing Statements,” with respect to the Series 2014 Bonds, means, collectively, the Borrower Financing Statement(s) and the Issuer Financing Statement(s).

“Fixed Charges” means, for any period, the sum of all cash outflows related to the Project that the Borrower cannot avoid without violating long-term contractual or legal obligations (those obligations that extend for a period greater than one year), including, but not limited to, (i) interest on Indebtedness other than Short-Term Indebtedness and (ii) scheduled payments of principal on Indebtedness other than Short-Term Indebtedness (each, a “Fixed Charge”). “Fixed Charges” do not include payments made to the Ground Sublessor under the Ground Sublease or any amounts payable in respect of any Indebtedness to the extent that such amounts are payable from the proceeds of such Indebtedness.

“Fixed Charges Coverage Ratio” means, for any period, the ratio of Revenue Available for Fixed Charges to Fixed Charges.

“Fixed Charges Coverage Surplus” shall have the meaning ascribed thereto in subsection (b) under the heading “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS - THE LOAN AGREEMENT – Financial Statements” in APPENDIX “E” hereto.

“Funds” means, collectively, all of the funds created pursuant to the Indenture (each, a “Fund”).

“GAAP” means those principles of accounting set forth in pronouncements of the Financial Accounting Standards Board and its predecessors or pronouncements of the American Institute of Certified Public Accountants or those principles of accounting that have other substantial authoritative support and are applicable in the circumstances as of the date of application, as such principles are from time to time supplemented and amended.

“General Construction Contract,” with respect to the Series 2014 Project, means the [Standard Form of Agreement Between Owner and Contractor/Construction Contract] dated _____________ ____, 2014, between the Developer, as owner, and the General Contractor, as contractor, pursuant to which the General Contractor has agreed to construct the Series 2014 Project.


“Government Obligations” means direct obligations of, or obligations the payment of the principal of and interest on which when due are unconditionally guaranteed by the United States of America or any agency or instrumentality thereof and evidences of direct ownership interest in amounts payable upon any of the foregoing.

“Governmental Person” means a state or local government unit, within the meaning of §1.103-1 of the Regulations, or an instrumentality thereof.

“Ground Sublease,” with respect to the Series 2014 Bonds, means the Sublease Agreement dated as of _____________ ____, 1, 2014, between the Ground Sublessor, as landlord, and the Borrower, as tenant, as the same may be amended from time to time in accordance with the provisions thereof and of the Indenture.

“Ground Sublessor” means the Board of Trustees of the University.

“Indebtedness” means, but only to the extent incurred in connection with the Project or secured by a lien on the Project or the Pledged Revenues, (i) all indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (ii) all deferred indebtedness for the payment of the purchase price of properties or assets purchased, (iii) all guaranties, endorsements (other than endorsements in the
ordinary course of business), assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, (iv) all indebtedness secured by mortgage, pledge, security interest, or lien existing on property owned that is subject to such mortgage, pledge, security interest, or lien, whether or not the indebtedness secured thereby shall have been assumed, (v) swap or hedging obligations or other similar derivative or investment agreements that, under certain circumstances, require a payment upon termination, and (vi) all capitalized lease obligations; provided, however, that for the purpose of computing Indebtedness, there shall be excluded any particular Indebtedness if, upon or prior to the maturity thereof, there shall have been irrevocably deposited with the proper depository in trust the necessary funds (or direct, nonredeemable obligations of the United States of America) for the payment, redemption, or satisfaction of such Indebtedness, and thereafter such funds and such direct obligations of the United States of America so deposited shall not be included in any computation of the assets of the Borrower and the income derived from such funds and such direct obligations of the United States of America so deposited shall not be included in any computation of the income of the Borrower.


“Indenture” means the Trust Indenture dated as of ________________ 1, 2014, between the Issuer and the Trustee, as the same may be amended and/or supplemented from time to time in accordance with the provisions thereof.

“Independent Counsel” means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state of the United States or the District of Columbia and not in the full-time employment of the Issuer or the Borrower.

“Independent Engineer” means any architect, engineer, or firm of architects or engineers that is independent of the Issuer and the Borrower and that is selected by the Borrower, at the expense of the Borrower, to report and be accountable solely to the Trustee for the benefit of the Bondholders for the purposes of, inter alia, producing monthly construction monitoring reports, passing on questions relating to the design and construction of any particular facility, reviewing repairs and replacements to the Project and the adequacy of the amounts deposited and required to be deposited into the Repair and Replacement Fund, and that has all licenses and certifications necessary for the performance of such services, and that has a favorable reputation for skill and experience in performing similar services in respect of facilities of a comparable size and nature.

“Indirect Participants” means those broker-dealers, banks, and other financial institutions from time to time for which the Securities Depository holds Bonds as a securities depository through a Participant (each, an “Indirect Participant”).

“Insurance Consultant” means any Person that is not the Issuer, the Borrower, or an Affiliate, appointed by the Borrower that is acceptable to the Trustee and that is qualified to survey risks and to recommend insurance coverage for student housing facilities and organizations engaged in like operations as that of the Project in the State, and that has a favorable reputation for skill and experience in such surveys and such recommendations and who may be a broker or agent with whom the Issuer or the Borrower transacts business.

“Insurance Fund” means the Fund of that name created in the Indenture.

“Interest Payment Dates” means January 1 and July 1 of each year, commencing January 1, 2015, in the case of Series 2014 Bonds, and the dates on which interest is scheduled to be paid, in the case of Additional Bonds (each, an “Interest Payment Date”).

“Inventory” means all of the inventory now or hereafter located at the Project in all of its forms, including without limitation all goods, materials, supplies, stores of food, drugs, and linens now or hereafter held for sale and use or consumption, whether by the Borrower, at the Project, together with all documents, documents of title, dock warrants, dock receipts, warehouse receipts, bills of lading, or orders for the delivery of all or any portion of the foregoing, all goods in which the Borrower has an interest in mass or a joint or other interest or right of any kind, all goods which are returned to or repossessed by the Borrower and all accessions thereto and products thereof.
“Irrevocable Deposit” means the irrevocable deposit with the Trustee in trust of Defeasance Obligations in accordance with the provisions of the Indenture. The Trustee shall have possession of any such Defeasance Obligations (other than book-entry securities).

“IRS” means the United States Internal Revenue Service or any successor agency or department.

“Issuance Cost Fund” means the Fund of that name created in the Indenture.

“Issuance Costs,” with respect to the Series 2014 Bonds, means:

(i) the initial or acceptance fee of the Trustee (which includes the administration fee for the first year), the fees and taxes for recording and filing the Leasehold Mortgage, the Security Agreement, the Assignment of Contracts and Agreements, UCC-1 Financing Statements, and any curative documents that either the Trustee or Independent Counsel may reasonably deem necessary or desirable to file for record in order to perfect or protect the interest of the Borrower in the Series 2014 Project or the lien or security interest created or granted by the Leasehold Mortgage, the Security Agreement, or the Assignment of Contracts and Agreements and the reasonable fees and expenses in connection with any actions or proceedings that either the Trustee or Independent Counsel may reasonably deem desirable to bring in order to perfect or protect the lien or security interest created or granted by the Leasehold Mortgage, the Security Agreement, or the Assignment of Contracts and Agreements in connection with the issuance thereof;

(ii) legal fees and expenses, underwriter’s spread, underwriting fees, financing costs, Issuer’s fees and expenses, financial advisor’s fees, accounting fees and expenses, consulting fees, Trustee’s fees, paying agent and certifying and authenticating agent fees, dissemination agent fees, publication costs, title insurance premiums, and printing and engraving costs incurred in connection with the authorization, sale, issuance, and carrying of the Series 2014 Bonds and the preparation of the applicable Bond Documents and all other documents in connection therewith; and

(iii) other costs in connection with the issuance of the Series 2014 Bonds permitted by the Act to be paid or reimbursed from Series 2014 Bond proceeds.

“Issue” means obligations treated as part of the same issue pursuant to §1.150-1(c) of the Regulations.

“Issuer” means the Miami-Dade County Industrial Development Authority, a public body corporate and politic organized under the laws of the State, and its successors and assigns.

“Issuer Documents,” with respect to the Series 2014 Bonds, means, collectively, the Indenture, the Loan Agreement, the Tax Agreement, the Bond Purchase Agreement, and the Issuer Financing Statement(s).

“Issuer Financing Statement(s),” with respect to the Series 2014 Bonds, means the UCC-1 Financing Statement(s) filed under the Indenture.

“Leasehold Mortgage,” with respect to the Series 2014 Bonds, means the Leasehold Mortgage and Assignment of Rents and Subleases dated as of _______________ 1, 2014, by the Borrower in favor of the Trustee, as the same may be amended and/or supplemented from time to time as permitted by the Indenture.

“Letter of Representations” means the[ Blanket] Letter of Representations dated ________________ _____________, executed by the Issuer and delivered to DTC and any amendments thereto or any successor blanket agreement(s) between the Issuer and any successor Securities Depository, relating to the Book-Entry System be maintained by the Securities Depository with respect to any Bonds issued by the Issuer under the Indenture.

“Loan” means the loan by the Issuer to the Borrower of the proceeds of the Bonds pursuant to Article III of the Loan Agreement and that is evidenced by the Notes.

“Loan Agreement,” with respect to the Series 2014 Bonds, means the Loan Agreement dated as of _______________ 1, 2014, between the Issuer and the Borrower, as the same may be amended and/or supplemented from time to time in accordance with the provisions of the Indenture.
“Loan Agreement Term” means the term of the Loan Agreement specified in the Loan Agreement, from its execution and delivery until July 1, ____________, unless terminated prior thereto pursuant to the provisions of the Loan Agreement.

“Loan Payments” means the Basic Loan Payments, the Additional Loan Payments, and the Reserve Loan Payments.

“Majority of the Bondholders” means the Owners of more than fifty percent (50%) in aggregate principal amount of the Bonds then Outstanding.

“Management Agreement,” with respect to the Series 2014 Bonds, means (i) the Management Agreement dated as of [Month] 1, 2014, between the Borrower and the Manager, as the same may be amended and/or supplemented from time to time and (ii) any management or similar agreement between the Borrower and any successor Manager relating to the management of the Series 2014 Project, as the same may be amended and/or supplemented from time to time.

“Manager” means, initially, Servitas Management Group, LLC, a limited liability company organized under the laws of the State of Texas, and its successors and assigns, and thereafter, any other management company employed by the Borrower to manage the Project.

“Mandatory Sinking Fund Redemption Requirement,” with respect to the Series 2014 Bonds, and on the date of calculation, means the principal portion of any Series 2014 Bonds required by the provisions of the Indenture to be redeemed by the Issuer on the immediately succeeding July 1.

“Maximum Annual Debt Service,” with respect to a Series of Bonds, means the maximum Annual Debt Service thereon in the then current Bond Year or in any future Bond Year, whether at maturity or subject to mandatory sinking fund redemption.

“Moody’s” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and if such corporation shall for any reason no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower. Whenever rating categories of Moody’s are specified in the Indenture, such categories shall be irrespective of gradations within a category.

“MSRB” means the Municipal Securities Rulemaking Board and its lawful successors.

“National Repository” means the MSRB (through its Electronic Municipal Market Access (EMMA) System) or any other repository designated by the SEC as a central repository.

“Net Proceeds,” when used with respect to any insurance or condemnation award, with respect to the sale or other disposition of a portion of the Project, or with respect to any other recovery on a contractual claim or claim for damage to or for taking of property, means the gross proceeds from the insurance or condemnation award, sale, or other disposition, or recovery remaining after payment of all expenses (including attorneys’ fees and any Extraordinary Expenses of the Trustee) incurred in the collection of such gross proceeds.

“Non-Construction Costs” means all Costs of the Project other than the costs and fees that are properly payable to the appropriate contractors pursuant to the Construction Contracts.

“Notes” means the Series 2014 Notes and any Additional Notes.

“Obligated Person” means any Person who is either generally or through an enterprise, fund, or account of such Person committed by contract or other arrangement to support all or part of the Series 2014 Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities).

“Office of the Trustee” means the corporate trust office of the Trustee in Jacksonville, Florida, currently located at 10245 Centurion Parkway, 2nd Floor, or such other location as may be designated by the Trustee to the
Issuer and the Borrower in writing, or the corporate trust office of, or such other location as may be designated to the Issuer and the Borrower in writing by, any successor or temporary Trustee under the Indenture.

"Operating Account" means the checking account maintained by the Borrower from which the Borrower shall pay Expenses.

"Operating Account Surplus" means the amount, if any, by which the amounts paid to the Borrower by the Trustee for deposit into the Operating Account in an Annual Period pursuant to the Indenture exceed the amounts paid, incurred, or accrued in respect of operating expenses of the Project during such Annual Period, such amount to be determined with reference to, and simultaneously with the delivery of, the audited financial statements delivered to the Trustee in accordance with the provisions of the Loan Agreement, as such amount may be adjusted in accordance with the provisions of the Indenture. For purposes of calculating the Operating Account Surplus for any Annual Period, amounts remaining in the Operating Account at the end of such Annual Period representing reserves for Shortfall Periods shall be considered to be accrued in respect of operating expenses of the Project during such Annual Period.

"Operating Agreement" means the Operating Agreement dated as of _________________ ____, 2014, between the University and the Borrower.

"Operations Contingency Fund" means the Fund of that name created in the Indenture.

"Opinion of Counsel" means an opinion in writing of Independent Counsel who or that is reasonably acceptable to all recipients thereof and who or that may be counsel to the Issuer, the Trustee, or the Borrower.

"Ordinary Services of the Trustee" and "Ordinary Expenses of the Trustee" mean those reasonable services rendered and those reasonable expenses incurred by the Trustee in the performance of its duties under the Indenture and under the other Bond Documents of the type ordinarily performed by corporate trustees under like indentures, including, without limitation, reasonable counsel fees and expenses.

"Outstanding Bonds" or "Bonds Outstanding" means all Bonds that have been duly authenticated and delivered by the Trustee under the Indenture, except:

(i) Bonds theretofore canceled or required to be canceled by the Trustee;

(ii) Bonds that are deemed to have been paid in accordance with the Indenture; and

(iii) Bonds in substitution for which other Bonds have been authenticated and delivered under the Indenture.

If the Indenture shall be discharged pursuant to the provisions of the Indenture, no Bonds shall be deemed to be Outstanding within the meaning of this definition.

"Participants" means those broker-dealers, banks, and other financial institutions from time to time for which the Securities Depository holds Bonds as a securities depository (each, a "Participant").

"Permitted Encumbrances" means, as of any particular time:

(i) Liens for ad valorem taxes, special assessments, and other charges not then delinquent or for taxes, assessments, and other charges being contested in accordance with the Loan Agreement;

(ii) the Bond Documents;

(iii) currently existing utility, access, and other easements and rights of way, restrictions, and exceptions described in the title policy required by the Loan Agreement;

(iv) utility, access, and other easements and rights of way, restrictions, and exceptions that have been determined by the Trustee not to materially impair the use of the Project for its intended purpose;
(v) rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, or permit, or provision of law, affecting the Project, to (a) terminate such right, power, franchise, grant, license or permit, provided that the exercise of such right been has been determined by the Trustee not to materially impair the use of the Project for its intended purpose or materially and adversely affect the value thereof, or (b) purchase, condemn, appropriate, or recapture, or designate a purchaser of, the Project;

(vi) rights reserved to or vested in any municipality or public authority to control or regulate the Project or to use the Project in any manner that have been determined by the Trustee not to materially impair the use of the Project for its intended purpose or materially and adversely affect the value thereof;

(vii) inchoate mechanics’ and materialmen’s liens that arise by operation of law, but that have not been perfected by the required filing of record, for work done or materials delivered after the date of recording the Leasehold Mortgage in connection with Additions or Alterations;

(viii) the mechanics’ and materialmen’s liens permitted by the Loan Agreement;

(ix) liens incurred in the ordinary course of business in connection with workers’ compensation, unemployment insurance, or other forms of governmental insurance or benefits;

(x) liens to secure the performance of letters of credit, bids, tenders, statutory obligations, leases, and contracts (other than for borrowed funds) entered into in the ordinary course of business to secure obligations on surety or appeal bonds;

(xi) statutory restrictions imposed on the use of real property owned by or for the benefit of the University.

(xii) judgment liens against the Borrower so long as such judgment is being contested and execution thereon is stayed or while the period for responsive pleading has not lapsed; and

(xiii) liens arising by reason of an Irrevocable Deposit.

“Permitted Investments” means any one or more of the following investments, if and to the extent the same are then legal investments under the applicable laws of the State for moneys proposed to be invested under the Indenture:

(i) Government Obligations;

(ii) obligations of any federal agency that represent the full faith and credit of the United States of America, including, but not limited to:

   (a) the Export-Import Bank,

   (b) the U.S. Department of Agriculture Rural Development (formerly the Farmers Home Administration),

   (c) the U.S. Maritime Administration,

   (d) the Small Business Administration,

   (e) the U.S. Department of Housing & Urban Development (PHAs),

   (f) the Federal Housing Administration, and

   (g) the Federal Financing Bank;

(iii) Defeasance Obligations;
(iv) direct obligations of any of the following federal agencies that are not fully guaranteed by the full faith and credit of the United States of America:

(a) Senior debt obligations that are rated by Moody’s and S&P in the single highest rating category assigned by such Rating Agencies issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC) or any other federal government sponsored agencies,

(b) Obligations of the Resolution Funding Corporation (REFCORP), and

(c) Senior debt obligations of other federal government sponsored agencies;

(v) U.S. dollar denominated deposit accounts, federal funds and bankers’ acceptances with domestic commercial banks that are rated by Moody’s and S&P in the single highest rating category assigned by such Rating Agencies and that mature not more than three hundred sixty (360) days after the date of purchase (it being understood that ratings on bank holding companies are not considered as the rating of the bank);

(vi) commercial paper that is rated by Moody’s and S&P in the single highest rating category assigned by such Rating Agencies and that matures not more than two hundred seventy (270) days after the date of purchase;

(vii) investments in a money market fund that is rated by S&P in the single highest rating category assigned by such Rating Agency;

(viii) obligations issued by states or political subdivisions or agencies of the states (and the District of Columbia) and their territories that are rated by at least two (2) Rating Agencies (one of which must be either S&P or Moody’s) in any of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned by such Rating Agencies;

(ix) certificates of deposit, time deposits or other direct, unsecured debt obligations of any bank (including without limitation the Trustee), trust company, or savings and loan association, if all of the direct, unsecured debt obligations of such institution are rated by a Rating Agency in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned by such Rating Agency, or which certificates of deposit, time deposits, or obligations are fully secured by a security interest in obligations described in item (i) or (ii) of this definition; provided, however, that if such certificates of deposit, time deposits or obligations are so secured (a) the Trustee shall have a perfected first security interest in the obligations securing such certificates of deposit, time deposits, or obligations, (b) the Trustee shall hold or shall have the option to appoint an intermediary bank, trust company, or savings and loan association as its agent to hold the obligations securing such certificates of deposit or time deposits, and (c) the Trustee or its appointed agent shall hold such obligations free and clear of the liens or claims of third parties;

(x) certificates of deposit or time deposits of any bank (including the Trustee), trust company, or savings and loan association which certificates of deposit or time deposits are fully insured by a federally sponsored insurance corporation;

(xi) securities of the type described in item (i) or (ii) above purchased under agreements to resell such securities to any registered broker/dealer subject to the Securities Investors Protection Corporation jurisdiction or any commercial bank, if such broker/dealer’s or bank’s uninsured, unsecured, and unguaranteed obligations are rated by a Rating Agency in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned by such Rating Agency, provided:

(a) a master repurchase agreement or specific written repurchase agreement governs the transaction;
(b) the repurchase agreement has a term of thirty (30) days or less, or the Trustee is required thereunder to value the collateral securities no less frequently than monthly and to liquidate or cause the custodian to liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two (2) Business Days of such valuation;

(c) the fair market value of the securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least one hundred percent (100%); and either:

(1) the securities are held by the Trustee free and clear of any lien or claims of a third party, or

(2) (A) the securities are held by an independent third party acting solely as agent for the Trustee free and clear of any lien or claims of a third party (other than as agent hereinafter describe), (B) such agent is a Federal Reserve Bank, or a bank that is a member of the Federal Deposit Insurance Corporation and which bank has combined capital, surplus and undivided profits of not less than Fifty Million Dollars ($50,000,000), (C) the Trustee shall have received written confirmation from such agent that it holds such securities free and clear of any lien or claim, as agent for the Trustee, and (D) a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 CFR 306.1 et. seq. or 31 CFR 350.0 et. seq. in such securities is created for the benefit of the Trustee; and

(xii) (a) investment agreements with a bank that is rated by a Rating Agency in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned by such Rating Agency or (b) investment agreements with a non-bank financial institution if (1) all of the unsecured, direct long-term debt of such non-bank financial institution is rated by a Rating Agency in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned by such Rating Agency for obligations of that nature; or (2) such non-bank financial institution has no outstanding long-term debt that is rated, all of the short-term debt of which is rated by a Rating Agency in the highest rating category (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned to short-term indebtedness by such Rating Agency all of which agreements referred to this item (xii) provide that if such banks’ or nonbank financial institutions’ debt no longer satisfies such rating criteria such banks or institutions will secure such agreements as soon as reasonably practicable to the extent and in the manner provided in (ix) above.

References to particular ratings and rating categories in this definition are applicable only at the time of purchase of the Permitted Investments.

“Person” means natural persons, firms, joint ventures, associations, trusts, partnerships, corporations, limited liability companies, public bodies, and similar entities.

“Plans and Specifications,” with respect to the Series 2014 Project, means the detailed plans and specifications for the construction thereof prepared by the Consulting Architect or by architects and engineers acceptable to the Consulting Architect, as amended from time to time by the Borrower with the consent of the Ground Sublessor, a copy of which is or will be on file with the Trustee.

“Pledged Revenues,” for any period, means (i) the sum of (a) the gross receipts and operating and non-operating revenues derived by the Borrower from the ownership or operation of the Project (other than contributions), and (b) Net Proceeds of insurance, and (c) Unrestricted Contributions, but excluding in any event, (ii) the sum of (a) earnings on amounts that are irrevocably deposited in escrow to pay the principal of or interest on Indebtedness, and (b) security deposits received from residents of the Project and held by the Borrower until such time, if any, as the Borrower shall be permitted to apply such deposits to the payment of rent or to the repair and maintenance of the Project in accordance with the terms of a lease or residency agreement, and (c) earnings or gains resulting from any reappraisal, revaluation, or write-up of assets, and (d) any unrealized gain resulting from changes in the value of investment securities.
“Premises” means, collectively, the Property and the Project.

“Project” means the Series 2014 Project and any additional project acquired, constructed, furnished, and equipped with the proceeds of Additional Bonds.

“Property” means the land described in the Loan Agreement.

“Qualified Exchange Agreement” means any agreement entered into between the Borrower and any Qualified Exchange Agreement Counterparty, which agreement provides that during the term thereof, the Borrower shall pay to the Qualified Exchange Agreement Counterparty an amount based on the interest accruing at a fixed rate per annum on an amount equal to the principal amount of such Bonds or portions thereof and that the Qualified Exchange Agreement Counterparty shall pay to the Borrower an amount based on the interest accruing on a principal amount equal to the same principal amount of such Bonds or portions thereof at a variable rate per annum, in each case computed according to a formula set forth in such agreement, or that one shall pay to the other any net amount or other upfront payment due under such agreement, or any of the following: a cap, floor, or collar agreement; forward rate agreement; future rate agreement; swap agreement described above; asset, index, price or market-linked transaction or agreement; other exchange or rate protection transaction or agreement; or other similar transaction (however designated), relating to an exchange of interest rates, cash flows or payments.

“Qualified Exchange Agreement Counterparty” means any financial institution entering into a Qualified Exchange Agreement with the Borrower that, at the time of the execution of such Qualified Exchange Agreement, (i) satisfies any applicable requirements of law and (ii) is rated, or whose debt is guaranteed, insured, or collateralized, or otherwise supported, by an entity whose financial strength or claims-paying ability is rated, “AA-” or better by S&P and “Aa3” or better by Moody’s.

“Qualified Management or Service Agreement” means a management contract or other service contract the terms of which will not cause interest on any Tax-Exempt Bonds to be includable in the gross income of the Owners thereof for federal income tax purposes.

“Rating Agency,” at any point in time, means any nationally recognized securities rating agency or service then rating a Subseries of Bonds (collectively, the “Rating Agencies”). When used in the definition of “Permitted Investments,” the term Rating Agencies shall include both Moody’s and S&P, whether or not one or both of them then rates a Subseries of Bonds.

“Rebate Amount,” means, as of any Calculation Date, the amount that would have been required to be paid to the United States of America under §148(f) of the Code with respect to all Outstanding Bonds had all of such Bonds been Discharged on and as of such Calculation Date.

“Rebate Analyst” means any independent certified public accountant, financial analyst, or Bond Counsel, or any firm of the foregoing, or financial institution, experienced in making the arbitrage and rebate calculations required pursuant to §148(f) of the Code, selected and retained and compensated by the Borrower pursuant to the provisions of the Loan Agreement described in APPENDIX “E” hereto, “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS,” under the subheading “THE LOAN AGREEMENT – Covenants With Respect to Arbitrage Rebate” to make the computations and give the directions required under the Indenture.

“Rebate Fund” means the Fund of that name created in the Indenture.

“Rebate Year” means, as to a Series of Tax-Exempt Bonds, the period beginning on the Closing Date for such Series of Tax-Exempt Bonds and ending on the day immediately preceding the immediately succeeding anniversary of such Closing Date, and each one year period thereafter beginning on the day immediately succeeding the last day of the immediately preceding Rebate Year and ending on the day immediately preceding the immediately succeeding anniversary of the Closing Date for such Series of Bonds, unless the Borrower, the Issuer, and the Trustee shall be advised by the Rebate Analyst that another period shall be required by law; provided, however, that the last Rebate Year for a Series of Tax-Exempt Bonds shall end on the date on which such Series of Tax-Exempt Bonds shall be paid or deemed paid in full.

“Redemption Fund” means the Fund of that name created in the Indenture.
“Redemption Price” means, with respect to Bonds or a portion thereof, the principal amount of such Bonds or portion thereof plus accrued interest, if any, plus the applicable premium, if any, payable on redemption thereof in the manner contemplated in accordance with its terms and the Indenture.

“Regular Record Date” means the fifteenth (15th) day of the month (whether or not such day is a Business Day) immediately preceding each Interest Payment Date.

“Regulations” means the applicable treasury regulations promulgated under the Code or under §103 of the Internal Revenue Code of 1954, as amended, whether at the time proposed, temporary, final, or otherwise. Reference herein to any specific provision of the Regulations shall be deemed to include a reference to any successor provision or provisions to such provision.

“Repair and Replacement Fund” means the Fund of that name created in the Indenture.

“Repository” means each National Repository and each SID (collectively, the “Repositories”).

“Requisite Number of Bondholders” means the Owners of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding.

“Reserve Loan Payments” means the Loan Payments payable by the Borrower to the Issuer pursuant to the Loan Agreement that are described in APPENDIX “E” hereto, “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS,” under the subheading “THE LOAN AGREEMENT - Loan Payments and Other Amounts Payable -- Reserve Loan Payments.”

“Responsible Officer” means, when used with respect to the Trustee, any officer within the Corporate Trust Department (or any successor group of the Trustee) including, without limitation, any vice president, assistant vice president, assistant secretary, or any other officer or assistant officer of the Trustee designated by the Trustee and who are located at the Office of the Trustee (collectively, the “Responsible Officers”).

“Restricted Account of the Surplus Fund” means the Account of the Surplus Fund of that name created in the Indenture.

“Revenue Available for Fixed Charges” means, for any period, the excess of Revenues over Expenses, plus, to the extent that the same shall have been included as an Expense, (i) expenses or expenditures made in respect of the Project that are capitalized, (ii) any extraordinary expenses (including without limitation losses on the sale of assets other than in the ordinary course of business and losses on the extinguishment of debt or termination of pension plans), (iii) deposits to the Debt Service Reserve Fund, (iv) the repayment of the principal amount of any Indebtedness, (v) payments made to the Ground Lessor under the Ground Lease, (vi) interest on Indebtedness other than Short-Term Indebtedness, (vii) depreciation, (viii) amortization, (ix) subordinated fees paid to the Manager in accordance with Section 510(b) [hereof/of the Indenture], and (x) any other Expense to the extent that payment of such Expense shall have been subordinated to the payment of Annual Debt Service.

“Revenue Fund” means the Fund of that name created in the Indenture.

“Revenues,” for any period, means Pledged Revenues minus (i) any gains on the sale or other disposition of investments or fixed or capital assets not in the ordinary course of business, (ii) contributions from any Affiliate, (iii) Net Proceeds of insurance other than business or rental interruption insurance, (iv) any extraordinary or non-recurring receipts, grants, or revenues.

“Rule” means Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and if such corporation shall for any reason no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower. Whenever rating categories of S&P are specified in the Indenture, such categories shall be irrespective of gradations within a category.

“Secretary” means the Secretary of the Issuer. The term shall include the Secretary Ex-Officio, the Deputy Secretary, the Assistant Secretary, or the Acting Secretary of the Issuer whenever, by reason of absence, illness, or other reason, the Secretary of the Issuer is unable to act.

“Securities Act” means the Securities Act of 1933, as amended.

“Securities Depository,” with respect to the Series 2014 Bonds, means DTC or other recognized securities depository selected by the Issuer at the request of the Borrower that maintains the Book-Entry System in respect of such Bonds and agrees to follow the procedures required to be followed under the Indenture by a securities depository and shall include any substitute for or successor to the securities depository initially acting as securities depository.

“Securities Depository Nominee” means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Bond Register the Bond certificates to be delivered to and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in the Book-Entry System.

“Security” means any of the property subject to the operation of the granting clauses contained in the Security Documents.

“Security Agreement,” with respect to the Series 2014 Bonds, means the Security Agreement dated as of __________________ 1, 2014, by and between the Borrower and the Trustee, as the same may be amended and/or supplemented from time to time as permitted by the Indenture.

“Security Documents” means, collectively, the Indenture, the Leasehold Mortgage, the Security Agreement, the Assignment of Contracts and Agreements, and the Loan Agreement (each, a “Security Document”).

“Series,” with respect to the Bonds, means all Bonds issued pursuant to the same Bond Resolution. Two or more Subseries of Bonds may be part of the same Series of Bonds even though they may not be issued and delivered on the same day.


“Series 2014 Building” means those certain buildings and all other facilities and improvements constituting part of the Series 2014 Project and not constituting part of the Series 2014 Equipment that are or will be located on the Property.

“Series 2014 Completion Date” means the date of substantial completion of the Series 2014 Project, as certified by the Borrower as provided in the Loan Agreement.

“Series 2014 Equipment” means the equipment, machinery, furnishings, and other personal property acquired with the proceeds of the Series 2014 Bonds and described in the Loan Agreement, and all replacements, substitutions, and additions thereto.

“Series 2014 Loan” means the loan by the Issuer to the Borrower of the proceeds of the Series 2014 Bonds pursuant to the Loan Agreement and that is evidenced by the Series 2014 Notes.

“Series 2014 Notes” means, collectively, the Series 2014A Note and the Series 2014B Note.

“Series 2014 Project” means the [618]-bed student housing facility that will be acquired, constructed, furnished, and equipped on a site located on the Campus and in the County, consisting of the Series 2014 Building and the Series 2014 Equipment.
“Series 2014A Bonds” means the revenue bonds designated “Miami-Dade County Industrial Development Authority Industrial Development Revenue Bonds (NCCD - Biscayne Properties LLC Project) Series 2014A” in the aggregate principal amount of $[Amount of A Bonds]† to be issued pursuant to the Indenture.

“Series 2014A Note” means the Series 2014A Promissory Note of the Borrower dated as of ______________ 1, 2014, in the original principal amount of $[Amount of A Bonds]†, payable to the Issuer, given to evidence the obligation of the Borrower to repay the portion of the Series 2014 Loan relating to the Series 2014A Bonds.

“Series 2014B Bonds” means the revenue bonds designated “Miami-Dade County Industrial Development Authority Taxable Industrial Development Revenue Bonds (NCCD - Biscayne Properties LLC Project) Series 2014B” in the aggregate principal amount of $[Amount of B Bonds]† to be issued pursuant to the Indenture.

“Series 2014B Note” means the Series 2014B Promissory Note of the Borrower dated as of ______________ 1, 2014, in the original principal amount of $[Amount of B Bonds]†, payable to the Issuer, given to evidence the obligation of the Borrower to repay the portion of the Series 2014 Loan relating to the Series 2014B Bonds.

“Short-Term Indebtedness” means any Indebtedness maturing not more than three hundred sixty-five (365) days after it is incurred or that is payable on demand, except for any such Indebtedness that is renewable or extendable at the sole option of the debtor to a date more than three hundred sixty-five (365) days after it is incurred, or any such Indebtedness that, although payable within three hundred sixty-five (365) days, constitutes payments required to be made on account of Indebtedness expressed to mature more than three hundred sixty-five (365) days after it was incurred.

“Shortfall Periods” means certain periods of time (e.g. summer months) when the Revenues may be inadequate to pay all of the Expenses.

“SID” means any public or private repository or entity designated by the State as a state information depository for the purpose of the Rule and recognized as such by the SEC. As of the date hereof, there is no SID.

“Sinking Fund Requirement,” with respect to the Series 2014 Bonds, means the principal amount established under the Indenture for the retirement thereof by purchase or redemption on July 1 of such Bond Year.

“Special Record Date,” for the payment of any Defaulted Interest, means the date fixed by the Trustee pursuant to the Indenture.

“State” means the State of Florida.

“Subseries,” with respect to the Bonds, means all Bonds of a Series that have the same designation and date of issuance and delivery (but do not necessarily have the same maturity date or bear interest at the same rate). If a Series of Bonds has only one Subseries, such Subseries shall also constitute a Series.

“Super-Majority of the Bondholders” means the Owners of not less than two-thirds (2/3rd) in aggregate principal amount of the Bonds then Outstanding.

“Surplus Fund” means the Fund of that name created in the Indenture.


“Tax-Exempt Bonds” means any Bonds the interest on which is intended to be excluded from the gross income of the Owners thereof for federal income tax purposes.

“Tax-Exempt Organization” means a Person organized under the laws of the United States of America or any state thereof (i) that is an organization described in §501(c)(3) of the Code, (ii) that is exempt from federal

† Preliminary, Subject to Change
income taxes under §501(a) of the Code, and (iii) unless a Favorable Opinion of Bond Counsel shall be delivered to the Issuer and the Trustee, that is not a “private foundation,” within the meaning of §509(a) of the Code.

“Trustee” means the trustee and any co-trustee at the time serving as such under the Indenture. Regions Bank, Jacksonville, Florida, is the initial Trustee.

“Trust Estate” means any and all property subject to the operation of the granting clauses of the Indenture including:

(i) all the right, title, and interest of the Issuer in and to (a) the Loan Agreement (except for Unassigned Rights) and any loan, financing, or similar agreement between the Issuer and the Borrower relating to Additional Bonds and (b) the Series 2014 Notes and any other Notes, and all extensions and renewals of the terms thereof, if any, and all amounts encumbered thereby, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive, and make receipt for payments and other sums of money payable, receivable, or to be held thereunder, to bring any actions and proceedings thereunder or for the enforcement thereof, and to do any and all other things that the Issuer is or may become entitled to do under the foregoing;

(ii) all the right, title, and interest of the Issuer in and to all cash proceeds and receipts arising out of or in connection with the sale of the Bonds and all moneys held by the Trustee in the funds created under the Indenture (excluding the Rebate Fund), including the Revenue Fund, the Bond Fund, the Redemption Fund, the Issuance Cost Fund, the Construction Fund, the Debt Service Reserve Fund, the Repair and Replacement Fund, the Insurance Fund, the Condemnation Fund, the Operations Contingency Fund, and the Surplus Fund created under the Indenture, or held by the Trustee as special trust funds derived from insurance proceeds, condemnation awards, payments on contractors’ performance or payment bonds or other surety bonds, or any other source;

(iii) all the right, title, and interest of the Issuer in and to all moneys and securities and interest earnings thereon from time to time delivered to and held by the Trustee under the terms of the Indenture and all other rights of every name and nature and any and all other property from time to time after the Closing Date by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned, or transferred as and for additional security under the Indenture by the Issuer or by anyone on its behalf or with its written consent to the Trustee; and

(iv) all other property of every name and nature from time to time after the Closing Date by delivery or by writing mortgaged, pledged, delivered, or hypothecated as and for additional security under the Indenture by the Issuer or by anyone on its behalf or with its written consent in favor of the Trustee.

“Unassigned Rights” means all of the rights of the Issuer to receive reimbursements and payments for all expenses reasonably incurred by it under the Loan Agreement in connection with the Project, including, without limitation, all reasonable fees and expenses of its attorneys, and to be indemnified and held harmless against and from all claims by or on behalf of any Person arising from the conduct or management of or from any work or thing done on the Project, and to execute and deliver supplements to and amendments of the Loan Agreement pursuant to the provisions thereof.


“University” means Florida International University, and its successors and assigns.

“University Board” means the Board of Trustees of Florida International University, and its successors and assigns.

“Unrestricted Contributions” means contributions to the Borrower that are not restricted in any way that would prevent their application to the payment of debt service on Indebtedness of the Borrower.

“Valuation Dates” means, collectively, the dates on which the Trustee shall be required to determine the Value of the cash and investments in the Debt Service Reserve Fund, which dates shall be (i) the date on which any
portion of a Series or Subseries of Bonds shall be defeased in accordance with the provisions of the Indenture described in APPENDIX “E” hereto, “SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS,” under the subheading “THE INDENTURE – Discharge of Lien” and (ii) prior to a determination that such Value is less than the Debt Service Reserve Requirement (a “Deficiency Determination”), June 30 and December 31 of each year and, after a Deficiency Determination, the last day of each month until the Value of the cash and investments in the Debt Service Reserve Fund again equals or exceeds the Debt Service Reserve Requirement; provided, however, if any such day is not a Business Day the Trustee shall make such determination as of the immediately succeeding Business Day (each, a “Valuation Date”).

“Value,” with respect to Permitted Investments, means (i) as to investments, the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times): the average of the bid and asked prices for such investment so published on or most recently prior to such time of determination; (ii) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investment by any two (2) nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; (iii) with respect to certificates of deposit and bankers’ acceptances, means the face amount thereof, plus accrued interest; (iv) with respect to agreements described in items (xi) and (xii) of the definition of Permitted Investments that permit the Borrower to withdraw amounts invested thereunder at any time without penalty, the amount available to be withdrawn therefrom; and (v) with respect to any investment not specified above, means the value thereof established by prior agreement between the Trustee and the Borrower.
APPENDIX “E”

SUMMARIES OF PRINCIPAL FINANCING DOCUMENTS

The following summaries of certain of the Bond Documents do not purport to be comprehensive or definitive statements of the provisions of such Bond Documents and prospective purchasers of the Series 2014 Bonds are referred to the complete texts of such documents, copies of which are available upon request from the Underwriter prior to the issuance and delivery of the Series 2014 Bonds and from the Trustee after the issuance and delivery of the Series 2014 Bonds.

THE LOAN AGREEMENT

Introduction

The Loan Agreement is an agreement that will provide for the loan of the proceeds of the Series 2014 Bonds by the Issuer to the Borrower and for the repayment of and security for such loan by the Borrower.

Term of the Loan Agreement (Section 5.01)

The Loan Agreement will become effective upon its execution and delivery and will be in full force and effect until all obligations under the Indenture shall have been paid in full (or provision for such payment shall have been made in accordance with the Indenture); provided, however, that the covenants and obligations expressed in the Loan Agreement to so survive will survive the termination of the Loan Agreement.

Construction of the Series Year Project (Section 4.01)

The Borrower will be required to construct the Series 2014 Project in accordance with the Plans and Specifications and the Construction Contracts and to warrant that the construction of the Series 2014 Project in accordance with the Plans and Specifications will, when supplemented by the Equipment, result in a facility suitable for use by the Borrower as a student housing facility and related facilities and that all real and personal property provided for therein is necessary or appropriate in connection with the Series 2014 Project. The Borrower will be permitted to make changes in or additions to the Plans and Specifications for the Series 2014 Project; provided, however, changes in or additions to such Plans and Specifications that are material will be subject to the prior written approval of the Developer and the University.

Loan Payments and Other Amounts Payable (Section 5.02)

(a) Basic Loan Payments: Until the Debt Service Payments on the Bonds shall have been paid in full or provision for the payment thereof shall have been made in accordance with the Indenture, the Borrower will be required to pay to the Trustee for the account of the Issuer as Basic Loan Payments, in each case for deposit into the Bond Fund, amounts sufficient to pay the Debt Service Payments on the Bonds as and when the same shall become due and all other sums payable under the terms of the Bonds. The Borrower will be required to pay to the Trustee for the account of the Issuer:

(i) on or before ________________________ 20, 20____, and on or before the twentieth (20th) day of each month thereafter to and including December 2014, a sum equal to one-twentieth (1/20th) of the amount payable on January 1, 2015, as interest on the Series 2014 Bonds, or such lesser amount that, together with amounts already on deposit in the Bond Fund and available therefor, will be sufficient to pay interest on the Series 2014 Bonds to become due on January 1, 2015, as provided in the Indenture;

(ii) on or before January 20, 2015, and on or before the twentieth (20th) day of each month thereafter, a sum equal to one-sixth (1/6th) of the amount payable on the immediately succeeding Interest Payment Date as interest on the Series 2014 Bonds, or such lesser amount that, together with amounts already on deposit in the Bond Fund and available therefor, will be sufficient to pay interest on the Series 2014 Bonds to become due on the immediately succeeding Interest Payment Date, as provided in the Indenture;
(iii) on the dates set forth in any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds, the amount(s) set forth therein to be paid by the Borrower in respect of interest on such Additional Bonds;

(iv) on or before July 20, **Note** - this date should not be before the Series 2014 Project is scheduled to be opened, and on or before the twentieth (20th) day of each month thereafter, to and including June 20, [2044], a sum equal to the sum of (1) one-twelfth (1/12th) of the principal due on the immediately succeeding July 1 that is a maturity date of the Series 2014 Bonds and (2) one-twelfth (1/12th) of the Mandatory Sinking Fund Redemption Requirement;

(v) on the dates set forth in any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds, the amount(s) set forth therein to be paid by the Borrower in respect of the principal of such Additional Bonds (whether at maturity or under any mandatory sinking fund or other similar redemption requirements of any supplemental indenture or indentures executed in connection with the issuance of Additional Bonds);

(vi) on the Business Day prior to any date on which the Series 2014 Bonds are to be redeemed pursuant to the mandatory redemption provisions of the Indenture (other than mandatory sinking fund redemption), an amount equal to the Redemption Price of the Series 2014 Bonds to be redeemed (taking into account amounts then on deposit in the Bond Fund and the Redemption Fund to be used for the payment of such Series 2014 Bonds to be redeemed); and

(vii) on the Business Day prior to any date on which any Additional Bonds to be redeemed pursuant to any mandatory redemption provisions of any supplemental indenture or indentures executed in connection with the issuance of Additional Bonds (other than mandatory sinking fund or other similar redemption pursuant to such supplemental indenture or indentures), an amount equal to the Redemption Price of such Additional Bonds to be redeemed (taking into account amounts then on deposit in the Bond Fund and the Redemption Fund to be used for the payment of such Additional Bonds to be redeemed).

Each payment of Basic Loan Payments under clauses (a)(i), (ii), and (iii) above will be required in all events to be sufficient, after giving credit for funds held in the Bond Fund (including amounts held in the Capitalized Interest Account) and the Revenue Fund available for such purpose, to pay the total amount of interest payable on the Bonds on the immediately succeeding Interest Payment Date, each payment of Basic Loan Payments under clauses (a)(iv) and (v) above will be required in all events to be sufficient, after giving credit for funds held in the Bond Fund available for such purpose, to pay the total amount of principal payable in respect of the Bonds on the immediately succeeding July 1, and each payment of Basic Loan Payments under clauses (a)(vi) and (vii) above will be required in all events to be sufficient, after giving credit for funds held in the Redemption Fund available for such purpose, to pay the total Redemption Price of the Bonds on the applicable date of redemption. Any Basic Loan Payments will be reduced or need not be made to the extent that there are moneys on deposit in the Bond Fund and/or the Redemption Fund in excess of scheduled payments of Basic Loan Payments plus the amount required for the payment of Bonds theretofore matured or called for redemption, the amount required for the payment of interest for which checks or drafts have been mailed by the Trustee, and past due interest in all cases where Bonds have not been presented for payment. Further, if the amount held by the Trustee in the Bond Fund and the Redemption Fund shall be sufficient to pay at the times required the Debt Service Payments on the Bonds then remaining unpaid, the Borrower will not be obligated to make any further payments of Basic Loan Payments under the above-described provisions. There will also be a credit against remaining Basic Loan Payments for Bonds purchased, redeemed, or canceled, as provided in the Indenture or in any supplemental indenture or indentures executed in connection with the issuance of Additional Bonds as provided therein.

(b) **Additional Loan Payments**: The Borrower will be required to pay (i) to the Trustee until the Debt Service Payments on the Bonds shall have been paid in full (A) for deposit into the Repair and Replacement Fund, commencing on [September] 20, [2015], and on the twentieth (20th) day of each month thereafter to and including June, [2016], in equal monthly installments, [one-tenth (1/10th)] of the amount shown on a schedule attached to the Loan Agreement, which initially equals $______________ per [unit/bed] contained in the Project, and on the twentieth (20th) day of each month thereafter, in equal monthly installments, one-twelfth (1/12th) of the amount shown on such schedule, and any and all additional amounts required to be deposited therein by any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds on the dates set
forth therein, (B) for deposit into any Fund or Funds created under the Indenture or any supplemental indenture or indentures executed in connection with the issuance of Additional Bonds other than the Repair and Replacement Fund, the Operations Contingency Fund, and the Surplus Fund, any and all additional amounts required to be deposited into such Fund or Funds by any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds on the dates set forth therein, (C) for deposit into the Rebate Fund any amount required to be deposited therein pursuant to the Loan Agreement, (D) promptly upon request, an amount equal to the annual fee of the Trustee for the Ordinary Services of the Trustee rendered, and the Ordinary Expenses of the Trustee incurred, under the Indenture, as and when the same shall become due, (E) promptly upon request, the reasonable fees and charges of the Trustee for the Extraordinary Services of the Trustee rendered by it, and the Extraordinary Expenses of the Trustee incurred by it, under the Indenture, as and when the same shall become due; provided, that the Borrower will be permitted, without creating an Event of Default, to contest in good faith the reasonableness of any such Extraordinary Services of the Trustee and Extraordinary Expenses of the Trustee and the reasonableness of any such fees, charges, or expenses, (ii) to the Issuer, an amount sufficient to reimburse the Issuer for all expenses incurred by it under the Loan Agreement in connection with the Bonds and the Project, or the later, audit, inquiry, investigation, modification, amendment, or interpretation of the Bonds or the Project, if any, including, but not limited to, the fees and expenses of counsel for the Issuer and Bond Counsel, fees and expenses for any rebate consultant or analyst retained by the Issuer as a result of the Borrower’s failure to comply with the provisions of the Loan Agreement described below under the heading “Covenants With Respect to Arbitrage Rebate.” any expenses incurred as a result of any audit relating to the Bonds, and the Issuer’s Annual Maintenance Fee described below under the subheading “Issuer’s Annual Maintenance Fee.” and (iii) provided no Event of Default shall have occurred and then be continuing, to the Manager, any management fees owed pursuant to the Management Agreement, which shall be evidenced by a written invoice approved by the Borrower and the Ground Sublessor.

Such Additional Loan Payments will be billed to the Borrower by the Issuer or the Trustee from time to time, together with a statement certifying that the amount billed has been incurred or paid by such party for one or more of the above items. Amounts so billed will be paid by the Borrower within thirty (30) days after receipt of the bill by the Borrower.

In the event the Borrower shall fail to make any of the payments described required under this heading “Loan Payments and Other Amounts Payable,” the item or installment so in default will continue as an obligation of the Borrower until the amount in default shall have been paid in full and, with the exception of the Issuer’s Annual Maintenance Fee, will bear interest at the highest rate of interest on the Bonds.

All amounts deposited in the Funds and Accounts created in the Indenture and available to be used to pay the amounts, fees, charges, and expenses described in the first paragraph under this subheading “Additional Loan Payments” in accordance with the terms of the Indenture will be credited against the Borrower’s obligation to make Additional Loan Payments to the extent such amounts are so used.

(c) Reserve Loan Payments: The Debt Service Reserve Fund will be funded in an amount equal to the Debt Service Reserve Requirement for the purpose of paying Debt Service Payments on the Series 2014A Bonds and on any Additional Bonds that are Tax-Exempt Bonds as the same shall become due in the event there shall be insufficient funds for said purpose in the Bond Fund, the Redemption Fund, the Surplus Fund (including the Restricted Account of the Surplus Fund), and the Operations Contingency Fund unless provision for their payment in full shall have been duly made, and for payment of the fees, charges, and expenses of the Trustee upon the occurrence of an Event of Default under the Indenture. In the event any funds from the Debt Service Reserve Fund shall be withdrawn or if there shall be a diminution in Value of the cash and investments held in the Debt Service Reserve Fund as of any Valuation Date or if any net losses result from the investment of amounts held in the Debt Service Reserve Fund that shall reduce the Value of the cash and investments held in the Debt Service Reserve Fund to less than the Debt Service Reserve Requirement as of any Valuation Date, the Borrower will be required, beginning on the twentieth (20th) day of the month following notice from the Trustee of such withdrawal, diminution in Value, or losses, and on the twentieth (20th) day of each month thereafter, in addition to any other Loan Payments that may be due, to make twelve (12) consecutive monthly payments as Reserve Loan Payments to the Trustee for deposit into the Debt Service Reserve Fund, each equal to one-twelfth (1/12th) of the amount of such withdrawal, diminution in Value, or losses.
(d) **Issuer’s Annual Maintenance Fee**: The Borrower will be required to pay to the Issuer on November 1 of each year, commencing on November 1, [2014], for the account of the Issuer, the Issuer’s annual maintenance fee (the “**Issuer Annual Maintenance Fee Payment**”) in an amount equal to 0.05% (5 basis points) of the aggregate principal amount of the Bonds Outstanding as of the immediately preceding October 31). If the Issuer shall not have received the Issuer Annual Maintenance Fee Payment on or before November 1 of any year, the Issuer will be required to provide written notice to the Borrower and the Trustee of the Borrower’s failure to make payment of such fee. If the Issuer shall not have received the full amount of the Issuer Annual Maintenance Fee Payment within forty-five (45) calendar days after such notice, the Borrower will be required to pay a late charge to the Issuer in the amount of one and one-half percent (1.5%) per month of the overdue Issuer Annual Maintenance Fee Payment.

(e) **Credit for Transfers and Deposits Under the Indenture**: The Borrower will receive a credit against its obligation to make the Loan Payments under the provisions of the Loan Agreement described under this heading to the extent of all sums that are transferred to any Person or deposited to any Fund or Account in accordance with the provisions of the Indenture described below under the headings “**The Indenture - Revenue Fund**” and “**Operations Contingency Fund.**”

**Payments Under the Series 2014 Notes (Section 3.01)**

To evidence its obligation to make Basic Loan Payments, the Borrower will execute and deliver to the Issuer the Series 2014 Notes pursuant to which the Borrower will be required to make payments sufficient to pay, when due, the Debt Service Payments on the Series 2014 Bonds. The Issuer will endorse the Series 2014 Notes, without recourse, to the order of the Trustee.

**Obligations of the Borrower Unconditional (Section 5.04)**

The obligations of the Borrower to make the payments required pursuant to the Loan Agreement and to perform and observe any and all of the other covenants and agreements on its part contained in the Loan Agreement will be a general obligation of the Borrower and will be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim it may otherwise have against the Issuer. The Borrower will agree that it will not (a) suspend, abate, reduce, abrogate, diminish, postpone, modify, or discontinue any payments described above under the heading “**Loan Payments and Other Amounts Payable,**” (b) fail to observe any of its other agreements contained in the Borrower Documents, or (c) except as described below under the headings “**General Options to Terminate the Loan Agreement,**” “**Option to Prepay the Series 2014 Loan Upon the Occurrence of Certain Extraordinary Events,**” and “**Option to Prepay Loan in Connection with Optional Redemption of the Bonds**” or in any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds, terminate its obligations under any of the Borrower Documents for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Borrower to occupy or to use the Project as contemplated in the Loan Agreement or otherwise, any change or delay in the time of availability of the Project, any acts or circumstances that may impair or preclude the use or possession of the Project, any defect in the title, design, operation, merchantability, fitness, or condition of the Project or in the suitability of the Project for the Borrower’s purposes or needs, failure of consideration, any declaration or finding that any of the Bonds are unenforceable or invalid, the invalidity of any provision of the Loan Agreement or any of the other Bond Documents, any acts or circumstances that may constitute an eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or the use of all or any part of the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision or agency of either or in the rules or regulations of any governmental authority, or any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Loan Agreement. The **rights of the Issuer to enforce the obligations of the Borrower will be limited as described in the Official Statement under the heading “Non-Recourse Obligation of the Borrower.”**

Nothing described in the immediately preceding paragraph will be construed to release the Issuer from the performance of any of the agreements on its part contained in the Loan Agreement. In the event the Issuer should fail to perform any such agreement on its part, the Borrower will be permitted to institute such action against the Issuer as the Borrower may deem necessary to compel performance so long as such action does not abrogate the Borrower’s obligations under the Loan Agreement.
**Repair and Replacement Fund Certification (Section 5.05)**

At least every five (5) years following the Series 2014 Completion Date, the Borrower will be required to file with the Trustee a certification accompanied by a written report of an Independent Engineer relating to the adequacy of the deposits in the Repair and Replacement Fund and the condition of the Series 2014 Project which shall state the Independent Engineer’s recommendation as to the amount of any adjustment needed to the Repair and Replacement Fund. The amounts required to be deposited into the Repair and Replacement Fund will be subject to adjustment upward if so recommended by the Independent Engineer, and if so adjusted, the Borrower will be required to provide the Issuer and the Trustee with revised exhibits reflecting such upward adjustment to the Loan Agreement and the Indenture which revised exhibits will, from and after the date of such recommendation, be deemed and treated as an amendment to the Loan Agreement and a supplement to the Indenture, respectively.

**Maintenance and Operation of Project; Additions or Alterations (Section 6.01)**

The Borrower will be required during the Loan Agreement Term at its own expense to (a) keep the Project in as reasonably safe condition as its operations shall permit, (b) keep the Building and all other improvements forming a part of the Project in good repair and in good operating condition, making from time to time, subject to the requirements described below under the heading “Removal of Equipment,” all necessary and proper repairs thereto and renewals and replacements thereof, including external and structural repairs, renewals, and replacements, and (c) use the Equipment in the regular course of its business only, within the normal capacity of the Equipment, without abuse, and in a manner contemplated by the manufacturer thereof, and cause the Equipment to be maintained in accordance with the manufacturer’s then currently published standard maintenance contract and recommendations. The Borrower will be permitted, also at its own expense, from time to time to make any Additions or Alterations to the Project that it may deem desirable for its business purposes and that do not, in the opinion of an Independent Engineer filed with the Trustee, adversely affect the operation or value of the Project, provided, that the opinion of an Independent Engineer will only be required in the case any Addition or Alteration or contract having a cost of more than One Hundred Thousand Dollars ($100,000). Additions or Alterations to the Project so made by the Borrower will be required to be on the Property, to become a part of the Project, and to become subject to the lien and security interest of the Leasehold Mortgage and the Security Agreement. Such Additions or Alterations that cost in excess of Five Hundred Thousand Dollars ($500,000) will be required to be made only by contractors that furnish performance and labor and material payment bonds in the full amount of such contracts, made by the contractor thereunder as the principal and a surety company or companies reasonably acceptable to the Trustee as surety, and such bonds will be required to be in such forms as are reasonably acceptable to the Trustee. Such bonds will be required to name the Borrower, the Issuer, and the Trustee as obligees, and all Net Proceeds received under such bonds will be required to be paid over to the Trustee and deposited into the Insurance Fund to be applied to the completion of the Additions or Alterations to the Project.

The Borrower will further agree that at all times during the construction of Additions or Alterations that cost in excess of Five Hundred Thousand Dollars ($500,000), it will maintain or cause to be maintained in full force and effect builder’s risk - completed value form insurance to the full insurable value of such Additions or Alterations. The Borrower will not be permitted to permit any mechanics’ or materialmen’s or other statutory liens to be perfected or remain against the Project for labor or materials furnished in connection with any Additions or Alterations so made by it, provided that it will not constitute an Event of Default upon such lien’s being filed if the Borrower shall promptly notify the Trustee of any such liens and the Borrower shall in good faith promptly contest such liens; in such event, the Borrower will be permitted to permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom provided the Borrower shall furnish the Trustee with a bond or cash deposit equal to at least the amount so contested, which, in the case of cash, will be required to be placed into an account with the Trustee, or with an Opinion of Counsel stating that by nonpayment of any such items, the lien and security interest of the Leasehold Mortgage and the Security Agreement will not be materially endangered and neither the Project nor any material part thereof will be subject to imminent loss or forfeiture. The proceeds of the bond or cash deposit may be used by the Trustee to satisfy the lien if action is taken to enforce the lien and such action is not stayed. The bond or cash deposit will be returned to the Borrower if the lien shall be successfully contested. If the Borrower shall be unable or shall otherwise fail to obtain such a bond or provide such a cash deposit or such an Opinion of Counsel, the Borrower will be required to cause to be satisfied and discharged promptly all such items by payment thereof. If the Borrower shall be unable or shall otherwise fail to obtain such a bond or provide such a cash deposit or such an Opinion of Counsel, or to satisfy and discharge the lien, the Issuer or the Trustee will be permitted to, but will be under no obligation to, satisfy and discharge the lien by payment thereof or provide security that shall cause the claimant to release the lien against the Project, and all
amounts so paid by the Issuer or the Trustee will be treated as an advance to the Borrower repayable in accordance with the provisions of the Loan Agreement described below under the heading “Advances by the Issuer or the Trustee.”

The Borrower will not be permitted to, or permit others under its control to, do any work in or about the Project or related to any repair, rebuilding, restoration, replacement, alteration of, or addition to the Project, or any part thereof, unless the Borrower shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. All such work will be required to be done in a good and workmanlike manner and in compliance with all applicable building, zoning, and other laws, ordinances, governmental regulations, and requirements and in accordance with the requirements, rules, and regulations of all insurers under the policies required to be carried under the provisions of the Loan Agreement described below under the heading “Insurance.”

Removal of Equipment (Section 6.02)

(a) If no Event of Default under the Loan Agreement shall have occurred and be continuing, in any instance where the Borrower in its discretion shall determine that any items of Equipment or any portion thereof shall have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary, the Borrower will be permitted to remove such items of Equipment or portion thereof from the Property and sell, trade-in, exchange, or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Issuer or the Trustee therefor, provided that the Borrower will be required either:

(i) to substitute and install anywhere in the Building or on the Property items of replacement equipment or related property having equal or greater value or utility (but not necessarily having the same function) in the operation of the Project for the purpose for which it is intended, provided such removal and substitution shall not impair the nature of the Project, all of which replacement equipment or related property will be required to be free of all liens, security interests, and encumbrances (other than Permitted Encumbrances), to become subject to the lien and security interest of the Leasehold Mortgage and the Security Agreement, and to be held by the Borrower on the same terms and conditions as the items originally constituting Equipment, or

(ii) not to make any such substitution and installation, unless in the case of: (A) the sale of any such Equipment, (B) the trade-in of such Equipment for other machinery, furnishings, equipment, or related property not to become part of the Equipment or to become subject to the lien and security interest of the Leasehold Mortgage and the Security Agreement, or (C) any other disposition thereof, the Borrower will be required to pay to the Trustee the proceeds of such sale or disposition or an amount equal to the credit received upon such trade-in for deposit into the Redemption Fund. In the case of the sale, trade-in, or other disposition of any such Equipment to an Affiliate of the Borrower, the Borrower will be required to pay to the Trustee an amount equal to the greater of the amounts and credits received therefor or the fair market value thereof at the time of such sale, trade-in, or other disposition for deposit into the Redemption Fund.

All amounts deposited into the Redemption Fund pursuant to the provisions of the Indenture described under this heading will be required to be used to redeem all or a portion of the Bonds issued to finance or refinance the acquisition of such inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary Equipment or, if such Bonds shall no longer be Outstanding, the redemption of such other Bonds as may be directed by the Borrower in accordance with the provisions of the Indenture. With respect to the Series 2014 Bonds, such amounts will be required to be used to redeem Series 2014 Bonds in accordance with the provisions of the Indenture described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Other Redemptions at Par.” Except to the extent that amounts are deposited into the Redemption Fund, the removal from the Project of any portion of the Equipment pursuant to the provisions of this Section will not entitle the Borrower to any postponement, abatement, or diminution of the Basic Loan Payments.

(b) In the event that prior to such removal and disposition of items of Equipment from the Building and the Property, the Borrower shall have acquired and installed machinery, furnishings, equipment, or related property with its own funds that become part of the Equipment and subject to the lien and security interest of the Leasehold Mortgage and the Security Agreement and that have equal or greater utility (but not necessarily the same function) as the Equipment to be removed, the Borrower will be permitted to take credit to the extent of the amount so spent by it against the requirement that it either substitute and install other machinery and equipment having equal or
greater value (but not necessarily the same function) or that it make payment to the Trustee for deposit into the Redemption Fund.

(c) The Borrower will be required to report promptly to the Trustee each such removal, substitution, sale, or other disposition and to pay to the Trustee such amounts as are required by the provisions of the Loan Agreement described in (a) above to be deposited into the Redemption Fund promptly after the sale, trade-in, or other disposition requiring such payment; provided, that no such report and payment will be required to be made until the amount to be deposited into the Redemption Fund on account of all such sales, trade-ins, or other dispositions not previously reported shall equal, in the aggregate, at least Fifty Thousand Dollars ($50,000) in any Annual Period. All amounts deposited into the Redemption Fund pursuant to the provision of the Loan Agreement described under this heading as a result of the sale, trade-in, exchange, or other disposition of Equipment will be required to be applied to the redemption of all or a portion of the Bonds issued to finance or refinance the acquisition of such Equipment or, if such Bonds are no longer Outstanding, the redemption of such other Bonds as may be directed by the Borrower in accordance with the provisions of the Indenture. All amounts so deposited into the Redemption Fund to be applied to the redemption of the Series 2014 Bonds will be required to be used by the Trustee to redeem Series 2014 Bonds in accordance with the redemption provisions described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Other Redemptions at Par.” The Borrower will not be permitted to remove, or to permit the removal of, any of the Equipment from the Building or the Property except in accordance with the provisions of the Loan Agreement described under this heading.

Taxes, Other Governmental Charges, and Utility Charges (Section 6.03)

The Borrower will be required to pay, as the same become due, (a) all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project that, if not paid, will become a lien on the Project prior to or on a parity with the lien and security interest of the Leasehold Mortgage and the Security Agreement or a charge on the Pledged Revenues prior to or on a parity with the charge and security interest thereon and the pledge or assignment thereof created and made in the Security Agreement and including all ad valorem taxes or payments in lieu of such taxes lawfully assessed upon the Project, (b) all utility and other charges incurred in the ownership, operation, maintenance, use, occupancy, and upkeep of the Project, and (c) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project; provided, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Borrower will be obligated to pay only such installments as are required to be paid during the Loan Agreement Term.

If the Borrower shall first notify the Trustee of its intention so to do, the Borrower will be permitted, at its own expense and in good faith, to contest any such taxes, assessments, or other charges and, in the event of any such contest, to permit the taxes, assessments, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided the Borrower shall furnish the Trustee with a bond or a cash deposit equal to at least the amount so contested plus any interest or penalties that might be payable as a result of any late payment, which, in the case of cash, will be required to be placed into an account with the Trustee and held for the purposes described under this heading, or an Opinion of Counsel stating that by nonpayment of any such items, the lien and security interest of the Leasehold Mortgage and the Security Agreement will not be materially endangered and neither the Project nor any material part thereof will be subject to imminent loss or forfeiture. The proceeds of such bond or cash deposit may be used by the Trustee to satisfy the lien if action shall be taken to enforce the lien and such action shall not be stayed. Such bond or cash deposit will be returned to the Borrower if the taxes, assessments, or other charges shall be successfully contested. If the Borrower shall be unable or shall otherwise fail to obtain such a bond or provide such a cash deposit or such Opinion of Counsel, such taxes, assessments, or charges will be required to be satisfied and discharged promptly by payment thereof.

Insurance (Sections 4.01, 6.04, 6.05, 6.06, and 6.07)

(a) The Borrower will agree that it will, at all times during the construction of the Series 2014 Project, maintain or cause the Developer and/or the General Contractor to maintain in full force and effect builder’s risk - completed value form insurance insuring all buildings, structures, boilers, equipment, facilities, fixtures, supplies, and other property constituting the Series 2014 Project on an “all risk of loss or damage basis,” currently referred to as “special form,” including coverage for soft costs and lost rents due to damage and destruction prior to completion in an amount not less than Maximum Annual Debt Service, including perils of fire, lightning, and all other risks covered by the extended coverage endorsement then in use in the State to the full replacement cost of the Series
2014 Project. Such policy or policies of insurance will be required to name the Issuer, the Borrower, the Trustee, and the University as insureds, as their respective interests may appear, and to name the Trustee as mortgagee under the Standard New York Mortgagee Endorsement or an equivalent endorsement or loss payable provision providing that no act or omission by the named insured shall in any way prejudice the rights the Trustee thereunder, and all Net Proceeds received under such policy or policies by the Borrower or the Issuer will be required to be required to be paid over to the Trustee and deposited into the Insurance Fund to be applied to the restoration and/or completion of the Series 2014 Project or to the redemption of Series 2014 Bonds in accordance with the provisions of the Loan Agreement described below under the heading “Destruction and Damage.” In addition, the Borrower will be required to cause the Developer and/or the General Contractor at all times during the construction of the Series 2014 Project to maintain (i) general liability insurance in an amount not less than that required to be maintained by the Borrower as described below under this heading and (ii) workers’ compensation insurance as required by law. Said insurance policy or policies will be required to contain a provision that such insurance may not be canceled by the issuer thereof without at least thirty (30) days’ advance written notice to the Issuer, the Borrower, and the Trustee.

(b) The Borrower will further agree that it will cause the Developer to require the General Contractor to deliver to the Trustee performance and labor and material payment bonds with respect to the General Construction Contract, and in the full amount thereof, made by the General Contractor as the principal and a surety company or companies, acceptable to the Underwriter, as surety; such bonds to be in such forms as are acceptable to the Underwriter. Said bonds will be required to name the Issuer, the Borrower, the Trustee, and the University as the obligees, and all Net Proceeds received under said bonds will become a part of and be deposited into the Construction Fund, or, if received after the Series 2014 Completion Date, will be used to pay any obligation then owed by the Borrower under the Loan Agreement, and if any Net Proceeds remain, will be [paid to the Borrower and/or the University in accordance with the provisions of the Ground Sublease]. Any amounts recovered by way of penalties or damages, whether liquidated or actual, for delays in completion by a contractor will be deposited into the Bond Fund.

(c) The Borrower will be required, throughout the Loan Agreement Term, to keep the Project or cause the same to be kept continuously insured against such risks as are customarily insured against with respect to facilities of like size and type, as recommended by an Insurance Consultant, including, but not limited to, the following:

(i) commencing on the date on which the Borrower begins leasing the Series 2014 Project to proposed residents thereof, insurance upon the repair or replacement basis in an amount of not less than one hundred percent (100%) of the then actual cost of replacement (excluding costs of replacing excavations and foundations, but without deduction for depreciation) of the Project (with deductible provisions not to exceed Twenty-Five Thousand Dollars ($25,000) per occurrence) against loss or damage by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke and such other risks as are now or hereafter included in the uniform standard extended coverage endorsement in common use for similar structures (including vandalism and malicious mischief);

(ii) commencing on the date on which the Borrower begins leasing the Series 2014 Project to proposed residents thereof, business interruption insurance (also referred to as “business income” or “loss of rents” insurance) covering loss of revenues and other income by the Borrower by reason of total or partial suspension of, or interruption in, the operation of the Project caused by covered damage to or destruction of the Project in an amount not less than the Maximum Annual Debt Service on the Bonds plus twelve (12) months’ budgeted operating expenses minus those operating expenses avoided as a result of and during the period of interruption;

(iii) comprehensive general liability insurance providing insurance (with deductible provisions not to exceed Twenty-Five Thousand Dollars ($25,000) per occurrence) covering all claims for bodily injury and property damage, including not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate, to include personal and advertising injury, general aggregate, products and completed operations aggregate insurance beginning at the completion of each Project component, and contract liability to cover all insurable obligations in the Ground Sublease;

(iv) commencing on the date any vehicle is acquired or hired by the Borrower for use with respect to the Project, automobile liability insurance providing insurance (with deductible provisions not to exceed Twenty-Five Thousand Dollars ($25,000) per occurrence) to the extent of not less than a combined single limit of One Million Dollars ($1,000,000) per accident covering liability arising out of the use of any
Borrower vehicle or such vehicles used in conjunction with the Project, whether owned, non-owned, or
hired, and including personal injury protection and uninsured motorist protection in the minimum statutory
limits where required by law;

(v) at all times, insurance under the Federal Flood Insurance Program within the minimum
requirements and amounts required for federally financed or assisted loans under the Flood Disaster
Protection Act of 1973, as amended, if the Project is eligible under such program;

(vi) commencing on the date the first employee of the Borrower is hired, workers’ compensation
coverage or other similar coverage covering all of the Borrower’s employees on the Premises, as required
by the laws of the State, including, with respect to workers’ compensation insurance, Coverage B-
Employer’s liability limits of: bodily injury by accident - Five Hundred Thousand Dollars ($500,000) each
accident; and bodily injury by disease - Five Hundred Thousand Dollars ($500,000) each employee (and, in
this regard, the Borrower shall require all subcontractors performing work on the Project to provide an
insurance certificate showing proof of workers’ compensation insurance);

(vii) to the extent that the Project contains a steam boiler, pressure vessels, or pressure piping, and
commencing on the date on which the same are installed in the Project, boiler explosion insurance on steam
boilers, if any, pressure vessels, and pressure piping in an amount not less than one hundred percent (100%)
of the then actual cost of replacement (excluding costs of replacing excavations and foundations, but
without deduction for depreciation) of the Project (with deductible provisions not to exceed Twenty-Five
Thousand Dollars ($25,000) per occurrence);

(viii) commencing on the Series 2014 Completion Date, fidelity bonds or employee dishonesty
insurance in the amount of One Hundred Thousand Dollars ($100,000) for all officers, agents, and
employees of the Borrower with the responsibility of handling Pledged Revenues; and

(ix) additional umbrella or excess liability coverage in the amount of Ten Million Dollars
($10,000,000) in the aggregate, which shall include all coverages required by (iii), (iv), and (vi) above.

(d) The Borrower will be required to deliver to the Trustee within ninety (90) days after the end of each
Annual Period, beginning with the Annual Period ending June 30, [2016], a certificate of an Authorized Borrower
Representative setting forth the particulars as to all insurance policies maintained by the Borrower pursuant to the
provisions of the Loan Agreement described under this heading and certifying that such insurance policies are in full
force and effect, that such policies comply with such provisions, and that all premiums then due thereon have been
paid. The Trustee will be entitled to rely upon said certification of the Borrower as to the Borrower’s compliance
with the insurance requirements of the provisions of the Loan Agreement described under this heading. The Trustee
will not be responsible for the sufficiency of coverage or the amounts of any such policies.

(e) The Borrower will be required to retain an Insurance Consultant to review its insurance requirements
and, if necessary, to make a recommendation not less than every two (2) years for increasing or decreasing any of
the insurance or coverages described above and to furnish a copy of such review to the Trustee, the University, and
the Underwriter. The Borrower will be required to follow any such recommendations of the Insurance Consultant
for increasing any of such insurance or coverages promptly and will be permitted to follow any such
recommendations of the Insurance Consultant for decreasing any of such insurance or coverages. The Net Proceeds
of insurance described in (i), (v), and (vii) above in excess of Two Hundred Fifty Thousand Dollars ($250,000) will
be paid to the Trustee and disbursed by it. See below under the heading “Destruction and Damage.” The Net
Proceeds of the insurance described in (ii) above, up to an amount equal to the Debt Service Reserve Requirement
on the Bonds (including any Mandatory Sinking Fund Redemption Requirement) for the succeeding twelve (12)
month period, will be required to be deposited into the Bond Fund and used as provided in the Indenture and the
balance will be [paid to the Borrower and/or the University in accordance with the provisions of the Ground
Sublease]. The Loan Agreement will require that all policies of insurance provide for payment to the Issuer, the
Borrower, the Ground Sublessor, and the Trustee as their respective interests may appear, that the policies described
in (iii) and (iv) above name the Issuer, the Ground Sublessor, and the Trustee as additional insureds, and that the
policies described in (i), (v), and (vii) name the Trustee as mortgagee and loss payee under the Standard New York
Mortgagee Endorsement or an equivalent endorsement of loss payable provision providing that no act or omission
by the Borrower shall in any way prejudice the rights of the Trustee under such policies.
Advances by the Issuer or the Trustee (Section 6.08)

If the Borrower shall fail to make any payment or perform any act required of it under the Loan Agreement, the Issuer or the Trustee will be permitted (but will be under no obligation), after notifying the Borrower of its intention to do so and at the expiration of any applicable cure period, to make such payment or perform such act. All amounts so paid by the Issuer or the Trustee and all costs, fees, and expenses so incurred will be payable as an additional obligation under the Loan Agreement and under the Notes, together with interest thereon from the date of payment by the Issuer or the Trustee, as applicable, at the Default Rate, payment of which will be secured by the Leasehold Mortgage and the Security Agreement. Any remedy in the Loan Agreement vested in the Issuer or the Trustee for the collection of the Loan Payments will also be available to the Issuer and the Trustee for the collection of all such amounts so advanced. The Trustee will be under no obligation to make any such payment unless it shall be requested to do so by the Requisite Number of Bondholders and shall be provided with adequate funds paid in cash to the Trustee (from a source or sources approved by the Trustee) for the purpose of such payment.

Destruction and Damage (Section 7.01)

(a) In the event that the Project shall be destroyed or damaged (in whole or in part) by fire or other casualty, the Borrower will be required to notify the Issuer and the Trustee promptly, and, unless the Bonds shall be paid in full from the Net Proceeds of insurance resulting from such destruction or damage, to continue to make the Loan Payments and will not be entitled to any postponement, abatement, or diminution thereof.

(b) If such Net Proceeds of insurance shall be less than Two Hundred Fifty Thousand Dollars ($250,000) (which amount will be increased as of each July 1 by a percentage equal to the past year’s increase, if any, in the Consumer Price Index for the [City/County] (the “CPI Adjustment”) as provided by the Borrower to the Trustee), all such insurance proceeds will be paid to the Borrower, and the Borrower will be required to repair, replace, rebuild, restore, and/or re-equip the Project promptly to substantially the same condition thereof as existed prior to the event causing such destruction or damage with such changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Borrower and as will not impair the value or the function of the Project. In the event the Net Proceeds shall not be sufficient to pay in full the costs of any such repair, replacement, rebuilding, restoration, and/or re-equipping, the Borrower will be required nonetheless to complete said work and to pay that portion of the costs thereof in excess of the amount of said Net Proceeds.

(c) If such Net Proceeds of insurance shall be in excess of Two Hundred Fifty Thousand Dollars ($250,000) (plus the applicable CPI Adjustment, if any), all such insurance proceeds will be required to be paid to the Trustee and deposited and held in the Insurance Fund to be applied, as fully as practicable, in one or more of the following ways as shall be directed in writing by the Borrower within sixty (60) days from the date of such deposit:

(i) subject to the requirements described under the heading “Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements” below, such Net Proceeds will be permitted to be applied to the restoration of the Project; or

(ii) subject to the requirements described under the heading “Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements” below, such Net Proceeds will be permitted to be applied to the acquisition of other suitable land and the acquisition, by construction or otherwise, to the extent permitted by applicable law, of improvements consisting of a building or buildings, facilities, furnishings, machinery, equipment, or other properties suitable for the Borrower’s operations at the Project as conducted prior to such destruction or damage (which improvements will be deemed a part of the Project and available for use and occupancy by the Borrower without the payment of any Loan Payments other than as provided in the Loan Agreement to the same extent as if such improvements were specifically described in the Loan Agreement and will be required to be acquired by the Borrower subject to no liens, security interests, or encumbrances prior to or on a parity with the lien and security interest of the Leasehold Mortgage and the Security Agreement, other than Permitted Encumbrances); or

(iii) such Net Proceeds will be permitted to be transferred to the Redemption Fund to be applied to the redemption of Bonds; or

(iv) such Net Proceeds will be permitted to be applied in some combination permitted by the foregoing clauses (i), (ii), and (iii) above.
(d) All Net Proceeds deposited into the Redemption Fund pursuant to the provisions of the Loan Agreement described under this heading as a result of the destruction of or damage to the Project will be required to be applied to the redemption of all or a portion of the Bonds issued to finance or refinance the acquisition of such portion of the Project or, if such Bonds shall no longer be Outstanding, the redemption of such other Bonds as may be directed by the Borrower in accordance with the provisions of the Indenture.

(e) All Net Proceeds so deposited into the Redemption Fund to be applied to the redemption of the Series 2014 Bonds will be required to be used to redeem Series 2014 Bonds in accordance with the provisions of the Indenture described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Extraordinary Optional Redemption;” provided, that no part of such Net Proceeds will be permitted to be applied to a redemption of the Bonds in whole unless the requirements of the Loan Agreement relating to prepayment in full upon destruction or damage described below under the heading “Option to Prepay the Series 2014 Loan Upon the Occurrence of Certain Extraordinary Events” shall have been met.

(f) Any balance of such Net Proceeds of insurance remaining after application pursuant to the provisions of the Loan Agreement described in (b) or (c) above or remaining because of the failure of the Authorized Borrower Representative to furnish to the Issuer, the Trustee, and the Ground Sublessor the items required by the provisions of the Loan Agreement described under the heading “Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements” will be required to be transferred to the Redemption Fund and used to redeem Bonds as described in (d) and (e) above.

Condemnation (Section 7.02)

(a) In the event that title to or the temporary use of the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority, the Borrower will be required to notify the Issuer and the Trustee promptly and, unless the Bonds shall be paid in full from the award made in such eminent domain proceedings, to continue to make the Loan Payments and will not be entitled any postponement, abatement, or diminution thereof.

(b) Except for Net Proceeds received by the Borrower with respect to its own property not included in the Project and not subject to the lien and security interest of the Leasehold Mortgage and the Security Agreement, the Issuer, the Borrower, and the Trustee will be required to cause the Net Proceeds received by them or any of them from any award made in such eminent domain proceedings to be paid to the Trustee and deposited and held in the Condemnation Fund to be applied, as fully as practicable, in one or more of the following ways as shall be directed in writing by the Borrower within sixty (60) days from the date of such deposit:

(i) subject to the requirements described under the heading “Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements” below, such Net Proceeds will be permitted to be applied to the restoration of the Project; or

(ii) subject to the requirements described under the heading “Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements” below, such Net Proceeds will be permitted to be applied to the acquisition of other suitable land and the acquisition, by construction or otherwise, to the extent permitted by applicable law, of improvements consisting of a building or buildings, facilities, furnishings, machinery, equipment, or other properties suitable for the Borrower’s operations at the Project as conducted prior to such taking (which improvements will be deemed a part of the Project and available for use and occupancy by the Borrower without the payment of any Loan Payments other than as provided in the Loan Agreement to the same extent as if such improvements were specifically described in the Loan Agreement and will be required to be acquired by the Borrower subject to no liens, security interests, or encumbrances prior to or on a parity with the lien and security interest of the Leasehold Mortgage and the Security Agreement, other than Permitted Encumbrances); or

(iii) such Net Proceeds will be permitted to be transferred to the Redemption Fund to be applied to the redemption of Bonds; or

(iv) such Net Proceeds will be permitted to be applied in some combination permitted by the foregoing clauses (i), (ii), and (iii) above).
(c) All Net Proceeds deposited into the Redemption Fund as a result of the condemnation of a portion of the Project will be required to be applied to the redemption of all or a portion of the Bonds issued to finance or refinance the acquisition of such portion of the Project or, if such Bonds shall no longer be Outstanding, the redemption of such other Bonds as may be directed by the Borrower in accordance with the provisions of the Indenture.

(d) All Net Proceeds so deposited into the Redemption Fund to be applied to the redemption of the Series 2014 Bonds will be required to be used to redeem Series 2014 Bonds in accordance with the provisions of the Indenture described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Extraordinary Optional Redemption;” provided, that no part of such Net Proceeds will be permitted to be applied to a redemption of the Bonds in whole unless the requirements of the Loan Agreement relating to prepayment in full upon destruction or damage described below under the heading “Option to Prepay the Series 2014 Loan Upon the Occurrence of Certain Extraordinary Events” shall have been met.

(e) Any balance of such Net Proceeds remaining after application pursuant to the provisions of the Loan Agreement described in (b) above or remaining because of the failure of the Authorized Borrower Representative to furnish to the Issuer, the Trustee, and the Ground Lessor the items required by the provisions of the Loan Agreement described under the heading “Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements” will be required to be transferred to the Redemption Fund and used to redeem Bonds as described in (c) and (d) above.

Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements (Section 7.03)

(a) Before the Trustee may apply any Net Proceeds pursuant to the provisions of the Loan Agreement described in (c)(i), (ii), or (iv) of the caption “Destruction and Damage” above in (b)(i), (ii), or (iv) of the caption “Condemnation” above to pay the costs of repairing, restoring, or and replacing the Project, the Borrower will be required to furnish to the Issuer, the Trustee, and the Ground Lessor (i) a construction contract and any architect’s agreement relating to such repair, restoration, or replacement, (ii) complete plans and specifications relating to such repair, restoration, or replacement (the “Restoration Plans and Specifications”), (iii) a certificate of an Independent Engineer that states that such repair, restoration, or replacement, if completed in accordance with the Restoration Plans and Specifications, will (A) restore the Project to substantially the condition thereof immediately preceding the damage, destruction, or condemnation and (B) comply with all applicable statutes, codes, and regulations; (iv) a certificate of an Authorized Borrower Representative stating that sufficient moneys are available to (A) pay for such repair, restoration, or replacement and, (B) together with available business interruption insurance proceeds and other available Pledged Revenues, pay Debt Service Payments on the Bonds and Expenses during the period of repair, restoration, or replacement; (v) applicable lien waivers or conditional lien waivers; (vi) evidence of the existence of performance and payment bonds for the applicable general contractor; and (vii) evidence that the Borrower has acquired all permits and licenses necessary for such construction; and, if such net proceeds are in excess of Two Hundred Fifty Thousand Dollars ($250,000) (plus the applicable CPI Adjustment, if any), in addition to those requirements listed in (i) through (vii) above, the Borrower will also be required to deliver to the Trustee: (viii) an endorsement to the applicable title insurance policy insuring the continued priority of the lien of the Leasehold Mortgage and (ix) an opinion of Bond Counsel to the effect that neither such repair, replacement, nor restoration nor such use of such casualty or condemnation proceeds will adversely affect the excludability from gross income for federal income tax purposes of interest on the Tax-Exempt Bonds.

(b) The Trustee will be required to retain ten percent (10%) of the requested disbursements to be disbursed upon final completion of the repair, replacement, or restoration as certified by an Independent Architect and receipt of certificates of occupancy, waivers of liens and, if such Net Proceeds shall be in excess of Two Hundred Fifty Thousand Dollars ($250,000) (plus the applicable CPI Adjustment, if any), an endorsement to the title insurance policy or policies required by the provisions of the Loan Agreement insuring the continued priority of the Leasehold Mortgage. If at any time during the period of repair, restoration, or replacement, the insurance or casualty proceeds shall be less than the estimated remaining costs to restore, repair, or replace the Project, the Borrower will be required to provide the Trustee with cash or cash equivalents in an amount equal to the shortfall.
General Options to Terminate the Loan Agreement (Section 11.01)

The Borrower will have the following options to terminate the Loan Agreement at any time prior to full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture). The Borrower will be permitted to terminate the Loan Agreement Term by (a) paying to the Trustee an amount that, when added to the amount on deposit in the Bond Fund and the Redemption Fund, will be sufficient to pay, retire, and redeem all of the Outstanding Bonds in accordance with the provisions of the Indenture (including, without limiting the generality of the foregoing, principal, redemption premium, interest to maturity or earliest applicable redemption date, as the case may be, premium, if any, expenses of redemption, and Trustee’s and paying agents’ fees and expenses, including reasonable attorneys’ fees), (b) in the case of redemption, making arrangements satisfactory to the Trustee for the giving of the required, irrevocable notice of redemption, (c) paying to the Issuer any and all sums then due to the Issuer under the Loan Agreement, and (d) otherwise complying with the provisions of the Indenture described below under the heading “THE INDENTURE - Discharge of Lien.” If the Ground Sublessor shall exercise the option granted to it pursuant to the Ground Sublease to purchase the Project, the Borrower will be required to exercise the option described in this paragraph.

Option to Prepay the Series 2014 Loan Upon the Occurrence of Certain Extraordinary Events (Section 11.02)

(a) The Borrower will have the option to prepay the Series 2014 Loan in full or in part prior to the full payment of all of the Series 2014 Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture):

(i) **in full** if the Series 2014 Project shall have been destroyed or damaged to such an extent that, in the opinion of an Independent Engineer expressed in a certificate filed with the Trustee and the Issuer, (A) the Series 2014 Project cannot reasonably be restored within a period of twelve (12) months to the condition thereof immediately preceding such destruction or damage, or (B) the Borrower will thereby be prevented from carrying on its normal operations thereat for a period of not less than twelve (12) consecutive months, or (C) the cost of restoration or replacement thereof would exceed the Net Proceeds of insurance payable in respect of such destruction or damage,

(ii) **in full** if title to, or the temporary use of, a substantial portion of the Series 2014 Project shall have been taken under the exercise of the power of eminent domain by any governmental authority or Person acting under governmental authority to such an extent that, in the opinion of an Independent Engineer expressed in a certificate filed with the Trustee and the Issuer, (A) the Series 2014 Project cannot be reasonably restored or replaced within a period of twelve (12) months to substantially the condition thereof immediately preceding such taking, or (B) the Borrower will thereby be prevented from carrying on its normal operations thereat for a period of not less than twelve (12) consecutive months, or (C) the cost of restoration or replacement thereof would exceed the total amount of compensation for such taking, or

(iii) **in part** in the event of partial condemnation or destruction of, or partial damage to, the Series 2014 Project, from the Net Proceeds received by the Borrower as a result of such taking, destruction, or damage to the extent such Net Proceeds are not used for the restoration of the Series 2014 Project or for the acquisition of substitute property suitable for the Borrower’s operations at the Series 2014 Project as such operations were conducted prior to such taking, destruction, or damage if the Borrower furnishes to the Trustee and the Issuer (A) a certificate of an Independent Engineer stating (1) that the property forming a part of the Series 2014 Project that was taken, destroyed, or damaged is not essential to the Borrower’s use or occupancy of the Series 2014 Project at substantially the same revenue-producing level as prior to such taking, destruction, or damage, or (2) that the Series 2014 Project has been restored to a condition substantially equivalent to its condition prior to such taking, destruction, or damage, or (B) a written report of a Financial Consultant filed with the Trustee and the Issuer that the Fixed Charges Coverage Ratio for each of the two (2) Annual Periods following the Annual Period following such taking, destruction, or damage will not be less than the lesser of (1) 1.20 and (2) the average Fixed Charges Coverage Ratio for the two (2) most recent Annual Periods prior to such taking, destruction, or damage for which audited financial statements are available.
(b) In the case of the occurrence of any of the events described in (a) above, the Borrower, if it shall exercise its option to prepay the Series 2014 Loan, will be required to prepay the Series 2014 Loan within one hundred eighty (180) days after such event.

(c) To exercise such option, the Borrower will be required, within sixty (60) days following the event authorizing the exercise of such option, to give written notice of the exercise of such option to the Issuer and to the Trustee and to specify therein the date of tender of such prepayment, which date shall not be less than forty-five (45), nor more than one hundred twenty (120), days from the date such notice is mailed, and to make arrangements satisfactory to the Trustee for the giving of the required notice of redemption.

(d) The amount payable by the Borrower in the event of its exercise of the option to prepay the Series 2014 Loan in full will be the sum of the following:

(i) an amount of money that, when added to the amount then on deposit in the Bond Fund, the Redemption Fund, and the Debt Service Reserve Fund (taking into account the fact that no amounts in the Debt Service Reserve Fund may be used to pay the Debt Service Payments on the Series 2014B Bonds) will be sufficient to retire and redeem all the then Outstanding Series 2014 Bonds on the applicable redemption date provided by the Indenture, including without limitation, principal, all interest to accrue to said redemption date, and redemption expense, but without premium, plus

(ii) an amount of money equal to the Trustee’s and paying agents’ fees and expenses, including reasonable attorneys’ fees and expenses, under the Indenture accrued and to accrue until such final payment and redemption of the Series 2014 Bonds, plus

(iii) an amount of money equal to the Issuer’s reimbursable expenses under the Loan Agreement accrued and to accrue until such final payment and redemption of the Series 2014 Bonds.

(e) The amount payable by the Borrower in the event of its exercise of the option to prepay the Series 2014 Loan in part will be the sum of the following:

(i) an amount of money that, when added to the amount then on deposit in the Bond Fund and the Redemption Fund, will be sufficient to retire and redeem the Series 2014 Bonds that are to be redeemed on the applicable redemption date provided by the Indenture, including without limitation, principal, all interest to accrue to the redemption date, and redemption expense, but without premium, plus

(ii) an amount of money equal to the Trustee’s and paying agents’ fees and expenses, including reasonable attorneys’ fees and expenses relating to such redemption, plus

(iii) an amount of money equal to the Issuer’s reimbursable expenses under the Loan Agreement relating to such redemption.

Option to Prepay Loan in Connection with Optional Redemption of the Bonds (Section 11.03)

The Borrower will have the option to prepay the Series 2014 Loan by prepaying Basic Loan Payments due under the Loan Agreement in such manner and amounts as will enable the Issuer to redeem the Series 2014 Bonds prior to maturity in whole or in part on any date, as described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Optional Redemption.” The Basic Loan Payments payable by the Borrower in the event of its exercise of such option will be, (i) in the case of partial redemption, the amount necessary to pay principal, all interest to accrue to the redemption date, the applicable redemption premium, as described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Optional Redemption,” and any redemption expense and (ii) in the case of a total redemption, the amounts described below under the heading “THE INDENTURE - Discharge of Lien” and the applicable redemption premium, as described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Optional Redemption.”

Financial Statements (Section 8.05)

The Borrower will be required to provide the Trustee, the Dissemination Agent, and the Underwriter annually, within one hundred eighty (180) days after the end of each Annual Period, beginning with the Annual
Period ending [June 30/_______ __], [2016], the financial statements of the Borrower relating to the Project, including its balance sheet, statement of revenue, expenses, and changes in fund balance (deficit), and statement of cash flow, for the year then ended in comparative form for the preceding Annual Period, which financial statements will be required to be accompanied by an Audit Report.

The financial statements to be furnished to the Trustee, the Dissemination Agent, and the Underwriter, annually pursuant to the provisions of the Loan Agreement described in (a) above, will be required to be accompanied by a calculation of (i) the Fixed Charges Coverage Ratio (both before and after the payment of all unpaid subordinated fees due to the Manager under the Management Agreement), (ii) the dollar amount, if any, that, if treated as an additional Fixed Charge incurred during the applicable Annual Period, would have reduced the Fixed Charges Coverage Ratio (before the payment of all unpaid subordinated fees due to the Manager under the Management Agreement) to 1.20 (the “Fixed Charges Coverage Surplus”), and (iii) the amount of the Operating Account Surplus, if any, and by a certificate of the Borrower to the effect that the Borrower is not then in default under any provisions of the Loan Agreement and has fully complied with all of the provisions thereof, or if the Borrower shall then be in default or shall have failed to so comply, setting forth the nature of the default or failure to comply.

Covenants Regarding Maintenance of Borrower’s and Corporation’s Status (Section 8.03)

(a) The Borrower will be required (i) to maintain its legal existence as a single member limited liability company organized under the laws of the State of Tennessee whose sole member is a Tax-Exempt Organization, (ii) to cause the Corporation to maintain its legal existence as a Tax-Exempt Organization and a non-profit corporation organized under the laws of the State of Texas, (iii) not, except as permitted by the provisions of the Loan Agreement described under this heading, to consolidate with or merge into another entity or permit another entity to consolidate with or merge into it, (iv) not to dissolve or otherwise dispose of all or substantially all of its assets, (v) to cause the Corporation to file all required reports and documents with the IRS so as to maintain its status as a Tax-Exempt Organization, (vi) not to operate the Project in any manner nor engage in any activities or take any action that might reasonably be expected to result in the Corporation’s ceasing to be a Tax-Exempt Organization, (vii) to notify the Issuer and the Trustee promptly of any loss of the Corporation’s status as a Tax-Exempt Organization or of any investigation, proceeding, or ruling that might result in such loss of status, and (viii) to use good faith efforts not to operate the Project or engage in activities or take action that might reasonably be expected to impair the Project’s exemption from ad valorem taxation. The Borrower will be required to preserve and keep in full force and effect all licenses and permits necessary to the proper conduct of its business.

(b) The Borrower will covenant that none of its or the Corporation’s revenues, income, or profits, whether realized or unrealized, will be distributed to any of its or the Corporation’s directors or inure to the benefit of any private Person, other than for the lawful corporate purposes of the Borrower or the Corporation; provided, however, that the Borrower and the Corporation will be permitted to pay to any Person the value of any service or product performed for, or supplied to, the Borrower or the Corporation by such Person. The Borrower will further covenant that it and the Corporation will take such actions as are necessary or appropriate and within their respective control to take to comply with the provisions of the Code and the Regulations in order to preserve the exclusion of the interest paid on the Tax-Exempt Bonds from the gross income of the Owners thereof for federal income tax purposes and will not act or fail to act in any other manner that would adversely affect such exclusion. In connection with the foregoing, the Borrower will agree to comply with the provisions of the Tax Agreement.

(c) The Borrower will be permitted, without violating the covenants described under this heading, to consolidate, merge, sell, or otherwise transfer to another Person all or substantially all of its assets as an entirety (and thereafter dissolve), provided (i) such consolidation, merger, sale, or other transfer shall not otherwise cause an Event of Default and (ii) the surviving, resulting, or transferee Person (A) shall be authorized to do business in the State, (B) shall be a domestic corporation, partnership, or other entity, or, if a natural person, a resident of the United States of America, (C) shall have the power to assume and shall assume in writing all of the obligations of the Borrower under this Agreement, the Notes, and the other Borrower Documents and shall deliver to the Trustee any security agreement necessary to ensure that after such consolidation, merger, sale, or other transfer, the Trustee shall have a security interest in all assets that constitute, or would have constituted, Collateral (as defined in the Security Agreement) prior to such consolidation, merger, sale, or transfer, together with an Opinion of Counsel that all action has been taken to perfect such security interest to the extent perfection can be made by the filing of financing statements, (D) shall obtain all licenses and permits required by law to operate the Project, (E) shall deliver to the Trustee a title insurance policy or endorsement insuring that the surviving, resulting, or transferee Person has a valid
leasehold interest in the Property and insuring the Leasehold Mortgage as a first lien subject only to the Permitted Encumbrances, (F) shall deliver to the Trustee an Opinion of Counsel to the effect that this Loan Agreement, the Notes, and the other Borrower Documents, as assumed by the surviving, resulting, or transferee Person, are valid and enforceable obligations of such Person, subject only to exceptions related to bankruptcy and other customary exceptions, (G) shall deliver a Favorable Opinion of Bond Counsel, (H) shall have a fund balance or net worth, as the case may be, as reflected in the pro forma financial statements required to be furnished pursuant to this Section, not less than the fund balance or net worth, as the case may be, of the Borrower, as reflected in the most recent audited balance sheet of the Borrower furnished to the Trustee pursuant to this Loan Agreement, and (I) shall have a Fixed Charges Coverage Ratio not less than that of the Borrower for the two (2) consecutive years prior to such consolidation, merger, sale, or transfer, as determined from the surviving, resultant, or transferee Person’s financial statements on a pro forma basis that gives effect to such consolidation, merger, sale, or transfer, which pro forma basis financial statements shall be accompanied by a report of the Accountant with respect to such historical pro forma basis financial statements stating the Fixed Charges Coverage Ratio for the periods reported on.

(d) The Borrower will also be permitted, without violating any covenants contained in the Loan Agreement, to sell, or otherwise transfer the Project to another Person that is controlled solely by the Borrower or the Corporation and that, prior to such sale or transfer, has no assets or liabilities, upon completion or satisfaction of the conditions described in items (i) and (ii)(A) through (G) of (c) above, and upon such completion or satisfaction will be released from all liabilities and obligations under the Loan Agreement, the Notes, and the other Borrower Documents.

(e) The Borrower will warrant that it is and while the Loan Agreement is in effect it (or the surviving, resulting, or transferee entity permitted by the provisions of the Loan Agreement described under this heading) will continue to be duly qualified to do business in the State.

Financial Covenants

**Rate Covenant.** The Borrower will be required to operate the Project as a revenue producing student housing facility on a non-discriminatory basis, and to the extent permitted by law and by the Ground Sublease, to charge such fees and rates for its facilities and services and to exercise such skill and diligence as will provide Revenue Available for Fixed Charges, together with other available funds, sufficient to pay promptly all expenses of operation, maintenance, and repair of the Project and to provide all payments required to be made by the Borrower under the Loan Agreement. Such rates, fees, and charges in each Annual Period beginning with the first full Annual Period after the Series 2014 Completion Date, will be required to be sufficient to produce a Fixed Charges Coverage Ratio of at least 1.20. In the event that it shall be determined, based upon the financial statements and calculation of the Borrower required to be furnished by the provisions of the Loan Agreement described above under the heading “Financial Statements,” that for any Annual Period such Fixed Charges Coverage Ratio shall not have been maintained, the Borrower will be required, within thirty (30) days of receipt of such financial statements, to engage a Financial Consultant to submit to the Trustee a report of such firm containing recommendations, if any, as to changes in the operating policies of the Borrower designed to maintain such Fixed Charges Coverage Ratio, to cause such Financial Consultant to prepare and submit such recommendations within sixty (60) days of the date of its engagement, and to implement such recommendations promptly to the extent permitted by law and by the Ground Sublease. Provided that the Fixed Charges Coverage Ratio does not fall below 1.00, no Event of Default will occur if such recommendations shall be followed notwithstanding that such Fixed Charges Coverage Ratio shall not subsequently be reattained, but the Borrower will be required to continue to be obligated to employ such a Financial Consultant for such purpose until such Fixed Charges Coverage Ratio shall be reattained.

The Borrower will also be required, from time to time as often as necessary and to the extent permitted by law and by the Ground Sublease, to revise the rates, fees, and charges aforesaid in such manner as may be necessary or proper so that the Revenue Available for Fixed Charges will be sufficient to meet the requirements of the Loan Agreement, and further, to take all action within its power to obtain approvals of any regulatory or supervisory authority to implement any rates, fees, and charges required by the Loan Agreement. (Section 8.06)

**Annual Budget.** The Borrower will be required, at least thirty (30) days prior to the first day of each Annual Period commencing with the Annual Period ending [June 30/_______ __]. [2016], to prepare the Annual Budget for the immediately succeeding Annual Period which will be required to include the monthly budgeted Expenses of the Project for such Annual Period. If the Borrower shall fail to prepare the Annual Budget for any
Annual Period, the Annual Budget for the immediately preceding Annual Period will continue in effect until the Annual Budget shall be prepared for the remainder of the applicable Annual Period.

To the extent that the Borrower shall deem it necessary at any time during any Annual Period, the Borrower will be required to submit a revised Annual Budget to the Issuer, the Trustee, and the Underwriter declaring that the revisions are necessary to operate or maintain the Project and setting forth the reasons therefor which revised Annual Budget will, for all purposes of the Loan Agreement, be deemed the Annual Budget for the remainder of the applicable Annual Period.

A copy of each Annual Budget or revised Annual Budget will be required to be furnished to the Trustee and the Underwriter. The Annual Budget or revised Annual Budget will be required to be accompanied by a certificate of the Borrower to the effect that the Fixed Charges Coverage Ratio for the Annual Period to which such Annual Budget relates, based on the projected Revenues and Expenses set forth therein, will not be less than 1.20.

In the event the Borrower shall fail to provide the above-described certificate, a Financial Consultant will be required to be engaged by the Borrower to review and/or revise the Annual Budget and to so certify to the Trustee and the Underwriter and, to the extent such Financial Consultant shall revise the proposed Annual Budget, such revised Annual Budget will, for all purposes of the Loan Agreement, be deemed the Annual Budget for the remainder of the applicable Annual Period. (Section 8.07)

Continuing Disclosure Matters (Section 8.08)

Under the Loan Agreement, the Borrower will be required all at all times to remain party to the Continuing Disclosure Agreement, or if the Continuing Disclosure Agreement shall terminate, to enter into a similar agreement to provide for the dissemination of the financial statements and notices required by Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended.

Covenant Regarding Manager (Section 8.11)

The Borrower will agree that if the initial Manager shall cease to serve as Manager, the Borrower will promptly employ, and at all times thereafter, employ, as the Manager either the University or a recognized manager of student housing facilities that then manages, and shall have for the past five (5) years managed, at least five thousand (5,000) beds of student housing. Prior to entering into a contract with any successor Manager, the Borrower will be required to deliver to the Trustee a Favorable Opinion of Bond Counsel.

Covenants With Respect to Arbitrage Rebate (Section 8.12)

The Borrower will covenant to comply with the covenants and procedures described below under the heading “THE INDENTURE – Rebate Fund” and to deposit in the Account(s) of the Rebate Fund such amount(s) as shall be necessary to maintain the deposit(s) in the Account(s) of the Rebate Fund at the Rebate Amount.

The Borrower will be required to provide to the Trustee and the Issuer at least every Rebate Year for each Series of Tax-Exempt Bonds, a certificate of the Borrower to the effect that (i) all requirements of the Loan Agreement, the Indenture, and the Tax Agreement with respect to the Rebate Fund have been met on a continuing basis, (ii) the proper amounts have been and are on deposit in the Rebate Fund, and (iii) timely payment of all amounts due and owing to the United States Treasury have been made, which certificate may be based in part on the computations of the Rebate Analyst. If the certifications required by either (ii) or (iii) above cannot be made, the certificate will be required to so state and will be required to be accompanied by either money of the Borrower together with a direction from the Borrower to the Trustee to either deposit such money to the Rebate Fund or to pay such money over to the United States Treasury, as appropriate, or directions from the Borrower to the Trustee to transfer investment income available in any Fund to the Rebate Fund or to the United States Treasury, as appropriate.

If the certificate described in the preceding paragraph shall not be delivered to the Trustee and the Issuer within forty-five (45) days after the end of each Rebate Year, during the term of the Loan Agreement, the Issuer will be required to (or will be required to cause an expert satisfactory to the Issuer to) do all things necessary and appropriate to enable the Borrower (or such expert) to make such certification as soon as possible. The Trustee will
be required to transfer moneys from other Funds or Accounts as described below under the heading “THE INDENTURE – Rebate Fund” to the Rebate Fund or the United States Treasury, as appropriate, if required.

Notwithstanding any provision of the Loan Agreement described under this heading, if the Borrower shall provide, at the Borrower’s expense, to the Trustee and to the Issuer an opinion of Bond Counsel to the effect that any action required under provision of the Loan Agreement described under this heading or the provisions of the Indenture described below under the heading “THE INDENTURE – Rebate Fund” shall no longer be required, or to the effect that some further action shall be required, to maintain the excludability from gross income of interest on the Tax-Exempt Bonds pursuant to §103(a) of the Code, the Borrower, the Issuer, and the Trustee will be permitted to rely conclusively on such opinion in complying with the provisions of the Loan Agreement described under this heading or the provisions of the Indenture described below under the heading “THE INDENTURE – Rebate Fund,” and the covenants of the Borrower described under this heading will be deemed to be modified to that extent.

Assignment and Subleasing; Restrictions on Encumbrances (Sections 9.01 and 9.02)

(a) The Borrower will be permitted to enter into subleases with residents of the Project without complying with the provisions described below other than item (vii). The Borrower will be permitted to assign and delegate the rights and obligations of the Borrower under the Loan Agreement, and the Project may be subleased, as a whole or in part, by the Borrower, without the necessity of obtaining the consent of either the Issuer or the Trustee, subject, however, to each of the following conditions:

(i) No assignment (other than in connection with a consolidation, merger, disposition, or transfer described above under the heading “Covenants Regarding Maintenance of Borrower’s and Corporation’s Status”) or sublease will relieve the Borrower from primary liability for any of its obligations under the Loan Agreement, and in the event of any such assignment or sublease, the Borrower will continue to remain primarily liable for payment of the Loan Payments and for the payment, performance, and observance of the other obligations and agreements on its part in the Loan Agreement provided to be performed and observed by it.

(ii) The assignee will be required to assume in writing the obligations of the Borrower under the Loan Agreement to the extent of the interest assigned.

(iii) The Borrower will be required to furnish or cause to be furnished to the Issuer and the Trustee assurances reasonably satisfactory to the Issuer and the Trustee that the Project will continue to be operated as a student housing facility and related facilities.

(iv) No assignment or sublease with any Person may be entered into by the Borrower without the Borrower’s first furnishing to the Trustee a Favorable Opinion of Bond Counsel or a ruling from the IRS to the effect that such assignment or sublease will not bring about an Event of Taxability.

(v) No such assignment or sublease will give rise to a novation.

(vi) The Borrower will be required, within thirty (30) days after the execution thereof, to furnish or cause to be furnished to the Issuer and the Trustee a true and complete copy of each such assignment or sublease, as the case may be.

(vii) All subleases will be required, to the extent required by the laws of the State, to contain an attornment clause providing in effect that if at any time during the term of the sublease, the Trustee, the designee of the Trustee, or a subsequent purchaser at a foreclosure sale from the Trustee, shall become the owner of the Project, such sublessee agrees, at the election and upon demand of any owner of the Project, to attorn, from time to time, to any such owner upon the terms and conditions set forth in the sublease. To the extent required by the laws of the State, such sublessee will be required to agree that at the request of the party to whom it has attorned, it will execute, acknowledge, and deliver, without charge, from time to time, instruments acknowledging such attornment. The attornment clause will also be required to provide that upon such attornment, the sublease shall continue in full force and effect as, or as if it were, a direct sublease between the successor and the sublessee, except that the successor landlord will not (A) have any liability for any previous act or omission of a predecessor landlord under the sublease, (B) be bound by any previous modification of the sublease, unless such modification or prepayment shall have been expressly
approved in writing by the Issuer and the Trustee, or (C) have any liability for refusal or failure to perform
or complete the landlord’s work or otherwise prepare the demised premises for occupancy in accordance
with the provisions of the sublease.

(b) The Borrower will not be permitted, except under the specific circumstances provided by the Bond
Documents, (i) to sell, convey, or otherwise dispose of any part of its interest in the Project during the Loan
Agreement Term directly, indirectly, or beneficially, (ii) to permit any part of the Premises to become subject to any
mortgage, lien, claim of title, encumbrance, security interest, conditional sale contract, title retention arrangement,
finance lease, or other charge of any kind, except for Permitted Encumbrances or except as otherwise permitted
under the Loan Agreement, or (iii) to assign, transfer, or hypothecate (other than to the Trustee) any rent (or
analogous payment) then due or to accrue in the future under any sublease of the Premises, except for Permitted
Encumbrances or except as otherwise permitted by the provisions of the Loan Agreement described under this
heading.

Events of Default (Section 10.01)

The Loan Agreement provides that the occurrence of any one or more of the following will constitute an
“Event of Default:“

(a) The Borrower shall fail to pay the Basic Loan Payments required to be paid under the Loan Agreement
as described in clauses (i), (ii), (iv) and (vi) under the above subheading “Loan Payments and Other Amounts
Payable - Basic Loan Payments” at the times specified therein and such failure shall continue for a period of five
(5) days after notice by mail, facsimile transmission, or personal delivery given to the Borrower by either the
Trustee or the Issuer, that the payment referred to in such notice has not been received, or, without regard to notice,
for a period of ten (10) days (eight (8) days in the case of Basic Loan Payments due in February) after any such
amount shall become due, whichever shall occur first.

(b) The Borrower shall fail to pay the Basic Loan Payments required to be paid under the Loan Agreement
as described in clauses (iii), (v), and (vii) under the above subheading “Loan Payments and Other Amounts
Payable - Basic Loan Payments” at the times specified therein and such failure shall continue for a period set forth
in the amendment or amendments hereto executed in connection with the issuance of Additional Bonds.

(c) Any representation or warranty made by the Borrower in any statement or certificate furnished to the
Issuer or the Trustee or the purchaser of any Bonds, in connection with the sale of any Bonds or furnished by the
Borrower pursuant to the Loan Agreement, shall prove to have been inaccurate in any material respect as of the date
of the issuance or making thereof and shall not have been corrected within thirty (30) days after written notice
specifying such inaccuracy shall have been given to the Borrower by the Issuer, the Trustee, or such purchaser. In
the case of any such inaccuracy that cannot with due diligence be corrected within such thirty (30) day period, but
that can be wholly corrected within a period of time not materially detrimental to the rights of the Trustee, it shall
not constitute an Event of Default if corrective action shall be instituted by the Borrower within the applicable
period and diligently pursued until the inaccuracy shall have been corrected in accordance with and subject to any
directions or limitations of time established in writing by the Trustee.

(d) The Borrower shall fail to perform or cause to be performed any other covenant, condition, or
provision of the Loan Agreement, other than as referred to in (a), (b), or (c) above or any covenant relating to the
Continuing Disclosure Agreement, and to correct such failure within thirty (30) days after written notice specifying
such failure shall have been given to the Borrower by the Issuer or the Trustee. In the case of any such failure that
cannot with due diligence be corrected within such thirty (30) day period, but that can be wholly corrected within a
period of time not materially detrimental to the rights of the Trustee, it shall not constitute an Event of Default if
corrective action shall be instituted by the Borrower within the applicable period and diligently pursued until the
failure shall have been corrected in accordance with and subject to any directions or limitations of time established
in writing by the Trustee.

(e) The Borrower shall (i) apply for or consent to the appointment of, or the taking of possession by, a
receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property or of the Project, (ii) fail to
lift or bond promptly (if legally permissible) any execution, garnishment, or attachment of such consequence as will
impair the ability of the Borrower to carry on its operations at the Project, (iii) enter into an agreement of
composition with its creditors, (iv) admit in writing its inability to pay its debts as such debts shall become due,
(v) make a general assignment for the benefit of its creditors, (vi) commence a voluntary case under the federal bankruptcy law or any similar law in effect in a foreign jurisdiction (as now or hereafter in effect), (vii) file a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (viii) fail to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law or any similar law in effect in a foreign jurisdiction (as now or hereafter in effect), or (ix) take any action for the purpose of effecting any of the foregoing.

(f) A proceeding or case shall be commenced, without the application of the Borrower, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the Borrower, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Borrower or of all or any substantial part of its assets, or (iii) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and shall continue unvacated and unstayed and in effect, for a period of ninety (90) days, whether consecutive or not.

(g) The Fixed Charges Coverage Ratio for any Annual Period shall be less than 1.00.

(h) The occurrence of an event of default under any of the Bond Documents other than the Continuing Disclosure Agreement.

**Remedies (Section 10.02)**

Whenever any Event of Default described in the immediately preceding heading “Events of Default” shall have happened and be subsisting, the Issuer, or the Trustee as the assignee of the Issuer, to the extent permitted by law, will be permitted:

(a) at its option, which may be exercised separately and independently from any similar option under the Indenture, to declare all unpaid installments of Basic Loan Payments and other amounts payable under the Loan Agreement as described above under the heading “Loan Payments and Other Amounts Payable” for the remainder of the Loan Agreement Term to be immediately due and payable whereupon the same will become immediately due and payable, it being understood that upon a declaration of acceleration by the Trustee under the Indenture, all such unpaid Basic Loan Payments and other amounts will become immediately due and payable; provided, however, that if acceleration of the Bonds shall have been rescinded and annulled pursuant to the Indenture, acceleration of the Basic Loan Payments and other amounts payable under the Loan Agreement required the provisions of the Loan Agreement described in this paragraph shall similarly be rescinded and annulled and the Event of Default occasioning such acceleration will be waived, but no such waiver, rescission, and annulment will extend to or affect any subsequent Event of Default or impair or exhaust any right, power, or remedy consequent thereon; or

(b) to have access to and inspect, examine, and make copies of the books and records and any and all accounts, similar data, and income tax and other tax returns of the Borrower; or

(c) from time to time, to take whatever action at law or in equity or under the terms of the Bond Documents may appear necessary or desirable to collect the Loan Payments and other amounts payable under the Loan Agreement as described above under the heading “Loan Payments and Other Amounts Payable” or to enforce performance and observance of any obligation, agreement, or covenant of the Borrower under the Loan Agreement.

Amounts collected pursuant to actions described above will be applied in accordance with the provisions of the Indenture, or, if the Bonds shall have been paid in full (or provision for payment thereof shall have been made in accordance with the provisions of the Indenture) and the Borrower shall have paid the Issuer and the Trustee all amounts due and owing under the Loan Agreement, then any amounts remaining will be [paid to the Borrower and/or the University in accordance with the provisions of the Ground Sublease].
No Remedy Exclusive (Section 10.03)

No remedy conferred upon or reserved to the Trustee, as assignee of the Issuer, in the Loan Agreement will be intended to be exclusive of any other available remedy or remedies, but each and every such remedy will be cumulative and in addition to every other remedy given under the Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or be construed to be a waiver thereof, but any such right and power will be permitted to be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in the Loan Agreement, it will not be necessary to give any notice, other than such notice as may be expressly required in the Loan Agreement. Such rights and remedies as are given the Issuer under the Loan Agreement will also extend to the Trustee, and the Trustee and the owners of the Bonds will be deemed third party beneficiaries of all covenants and agreements contained in the Loan Agreement.

Waiver of Events of Default (Section 10.05)

The Trustee, on behalf of the Issuer, will be permitted to waive any Event of Default under the Loan Agreement and its consequences or rescind any declaration of acceleration of payments of the Basic Loan Payments due under the Loan Agreement. In case of any such waiver or rescission, or in case any proceeding taken by the Issuer or the Trustee on account of any such Event of Default shall be discontinued or abandoned or determined adversely to the Issuer or the Trustee, then and in every such case the Issuer and the Borrower will be restored to their former position and rights under the Loan Agreement, but no such waiver or rescission will extend to any subsequent or other Event of Default or impair any right consequent thereon.

Restoration to Original Positions (Section 10.08)

In case the Issuer or the Trustee shall have proceeded to enforce any right under the Loan Agreement, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Borrower, and the Trustee will be restored to their former positions and rights under the Loan Agreement, and all rights, remedies, and powers of the Issuer and the Trustee will continue as if no such proceedings had been taken. To the extent that the Issuer or the Trustee shall waive or rescind any Event of Default under the Loan Agreement, or in case any proceeding taken by the Issuer or the Trustee on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Borrower will be restored to their former positions and rights under the Loan Agreement, respectively, but no such waiver or rescission will extend to any subsequent or other default, or impair any right consequent thereon.

Delay or Omission Not a Waiver. (Section 10.09)

No delay or omission of the Issuer or the Trustee to exercise any right or power accruing upon any Event of Default will impair any such right or power, or be construed to be a waiver of any such Event of Default or an acquiescence therein; and every power and remedy given by the Loan Agreement to the Issuer or the Trustee will be permitted to be exercised from time to time and as often as may be deemed expedient by the Issuer or the Trustee.

Waiver of Extension, Stay, and Redemption Laws (Section 10.10)

To the extent permitted by law, the Borrower will not be permitted, during the continuance of any Event of Default under the Loan Agreement, to insist upon, or plead, or in any manner whatever, claim or take any benefit or advantage of, any extension or stay law wherever enacted, now or at any time hereafter in force, that may affect the covenants and terms of performance of the Loan Agreement; nor after any sale or sales of the Project that may be made pursuant to any provision contained the Loan Agreement, or pursuant to the decree, judgment, or order of any court of competent jurisdiction claim or exercise any right under any statute heretofore or hereafter enacted by the United States of America or by any state or territory, or otherwise, to redeem the property so sold or any part thereof, and the Borrower will expressly waive all benefits or advantages of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Issuer, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.
Remedies Subject to Provisions of Laws (Section 10.11)

All rights, remedies, and powers provided by the Loan Agreement will be permitted to be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of the Loan Agreement will be intended to be subject to all applicable mandatory provisions of law that may be controlling in the premises and to be limited to the extent necessary so that they will not render the Loan Agreement invalid or unenforceable under the provisions of any applicable law.

No Right to Conduct Affairs of the Borrower (Section 10.12)

Nothing contained in the Loan Agreement will be construed to grant to the Issuer or the Trustee the right to conduct the business and affairs of the Borrower, whether or not an Event of Default shall have occurred.

Amendments

See the heading "THE INDENTURE - Amendment of Other Bond Documents" herein.

THE SERIES 2014 NOTES

Introduction

The Series 2014 Notes of the Borrower, dated as of _________________ 1, 2014, will be executed and delivered by the Borrower to the Issuer and endorsed without recourse by the Issuer to the Trustee to evidence the obligation of the Borrower to make Basic Loan Payments under the Loan Agreement in order to repay the Loan.

Payment Terms

The Series 2014A Note and the Series 2014B Note, each in the original principal amounts equal to the Series 2014A Bonds and Series 2014B Bonds, respectively, bear interest at the same rates as the rates on the Series 2014A Bonds and Series 2014B Bonds. Each Series 2014 Note requires payments of interest and principal sufficient to pay, when due, the Debt Service Payments on the Series 2014 Bonds to which it relates. See “THE LOAN AGREEMENT - Loan Payments and Other Amounts Payable.”

Prepayment Terms

The Series 2014 Notes will be subject to prepayment in whole or in part under the same circumstances that permit or require prepayment of Loan Payments under the Loan Agreement. See “THE LOAN AGREEMENT - Option to Prepay the Series 2014 Loan Upon the Occurrence of Certain Extraordinary Events” herein.

THE LEASEHOLD MORTGAGE

Introduction

The Leasehold Mortgage will provide security for the Borrower’s obligations under the Loan Agreement and any loan, financing, or similar agreement between the Issuer and the Borrower relating to Additional Bonds and the Notes.

Security

To secure the Borrower’s obligations to the Issuer under Loan Agreement and any loan, financing, or similar agreement between the Issuer and the Borrower relating to Additional Bonds and the Notes, the Borrower will execute and deliver to the Trustee the Leasehold Mortgage pursuant to which the Borrower will, subject to Permitted Encumbrances, convey to the Trustee a first mortgage lien on its interest in the real property included in the Project and the Property and all leases of all or part of the Project and will grant to the Trustee a security interest in all rents, issues, profits, revenues, income, receipts, moneys, royalties, rights and benefits of and from the Project and from and in connection with its ownership, occupancy, use, or enjoyment of the Project, subject to Permitted Encumbrances.
Remedies

Upon the occurrence and continuation of an Event of Default under the Indenture or the Loan Agreement, the Trustee will be entitled to exercise the remedies provided by the Leasehold Mortgage which will permit the Trustee (i) to declare the outstanding principal amount of the Series 2014 Bonds, the interest accrued thereon, and all other amounts payable with respect thereto to be due and payable immediately, and upon such declaration, such amounts shall immediately become and be due and payable, (ii) by itself, or by such officers or agents as it may appoint, to enter and take possession of the Project and to exclude the Borrower and their respective agents and employees wholly therefrom, (iii) to demand, collect, and sue for, in its own name, or in the name of the Borrower all of the rents, issues, profits, revenues, royalties, earnings, income, and benefits derived from the Project as they become due and payable, including those past due and unpaid and to apply such rents, issues, profits, revenues, royalties, earnings, income, and benefits to the payment of the Series 2014 Bonds, and (iv) with or without entry or taking possession, to proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (a) to enforce payment of the Series 2014 Bonds or the performance of any term of the Loan Agreement, the Leasehold Mortgage, or any of the other Bond Documents or any other right; (b) to foreclose the Leasehold Mortgage and to sell, as an entirety or in separate lots or parcels, the Project, under the judgment or decree of a court or courts of competent jurisdiction; and (c) to pursue any other remedy available to it. All proceeds from the exercise of the remedies provided by the Leasehold Mortgage will be applied as provided in the Indenture.

THE SECURITY AGREEMENT

Introduction

The Security Agreement will provide security for the Borrower’s obligations under the Loan Agreement and the Notes.

Security

To secure the Borrower’s obligations to the Issuer under Loan Agreement and the Notes, the Borrower will execute and deliver to the Trustee the Security Agreement pursuant to which the Borrower will, subject to Permitted Encumbrances, grant to the Trustee a first priority security interest in the following (the “Collateral”): (a) the Pledged Revenues, (b) all accounts, documents, chattel paper, instruments, and general intangibles arising in any manner from the Borrower’s ownership and/or operation of the Project, (c) the Equipment, (d) the Inventory, (e) all accounts, books, records, and other property relating or referring to any of the foregoing, and (f) all proceeds of any of the foregoing.

Remedies

Upon the occurrence and continuation of an Event of Default under the Indenture or the Loan Agreement, the Trustee will be permitted to exercise in respect of the Collateral, in addition to other rights and remedies provided for in the Security Agreement or otherwise available to it, all rights and remedies permitted under the Loan Agreement or otherwise permitted in law or in equity, to protect and dispose of the Collateral and to protect its rights to payment under the Loan Agreement and the Notes, and all the rights and remedies of a secured party on default under the Florida Uniform Commercial Code (the “UCC”) (whether or not the UCC applies to the affected Collateral) and also may (i) require the Borrower to, and the Borrower will agree that it will at its own expense, gather or assemble all or part of the Collateral not in the possession of the Trustee as directed by the Trustee and make it available to the Trustee at a place to be designated by the Trustee that is reasonably convenient to both parties and (ii) without notice, except as specified below, sell the Collateral, or any part thereof, in one or more parcels at public or private sale, at any of the Trustee’s offices or elsewhere, for cash, or credit, or for future delivery, and at such price or prices and upon such other terms as the Trustee may deem commercially reasonable. Any cash held by the Trustee as collateral and all cash proceeds received by the Trustee in respect of any sale of, collection from, or other realization upon all or any part of the collateral subject to the Security Agreement will be applied as provided in the Indenture.
THE INDENTURE

Introduction

The Indenture will be a contract for the benefit of the Owners that will specify the terms and details of the Series 2014 Bonds and which will define the security therefor.

Establishment of Funds

The following trust funds will be established with the Trustee under the Indenture:

Revenue Fund
Bond Fund
Redemption Fund
Issuance Cost Fund
Construction Fund
Debt Service Reserve Fund
Repair and Replacement Fund
Insurance and Condemnation Funds
Operations Contingency Fund
Surplus Fund
Rebate Fund

Revenue Fund (Section 501)

In the Loan Agreement, the Borrower will agree to deliver, or cause to be delivered, not less frequently than each Friday (or if any Friday is not a Business Day, the immediately preceding Business Day) to the Trustee, for deposit in the Revenue Fund, all Pledged Revenues received by it in the form of cash, checks, or negotiable instruments. The amounts deposited into the Revenue Fund will be transferred or paid by the Trustee to the following Funds and/or Persons in the order and amounts and on the dates indicated:

(a) there will be transferred to the Bond Fund:

   (i) on or before _______________ 20, 20__, and on or before the twentieth (20th) day of each month thereafter to and including December 20, 2014, a sum equal to one-[_________] (1/[_______]) of the amount payable on January 1, 2015, as interest on the Series 2014 Bonds, or such lesser amount that, together with amounts already on deposit in the Bond Fund and available therefor, will be sufficient to pay interest on the Series 2014 Bonds to become due on January 1, 2015, as provided in the Indenture;

   (ii) on or before January 20, 2015, and on or before the twentieth (20th) day of each month thereafter, a sum equal to one-sixth (1/6th) of the amount payable on the immediately succeeding Interest Payment Date as interest on the Series 2014 Bonds, or such lesser amount that, together with amounts already on deposit in the Bond Fund and available therefor, will be sufficient to pay interest on the Series 2014 Bonds to become due on the immediately succeeding Interest Payment Date, as provided in the Indenture;

   (iii) on the dates set forth in any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds, the amount(s) set forth therein to be paid by the Borrower in respect of interest on such Additional Bonds;

   (iv) on or before July 20, [year preceding first principal payment on the Series 2014 Bonds] [**Note** - this date should not be before the Series 2014 Project is scheduled to be opened], and on or before the twentieth (20th) day of each month thereafter, to and including June 20, [2044], a sum equal to the sum of (A) one-twelfth (1/12th) of the principal due on the immediately succeeding July 1 that is a maturity date of the Series 2014 Bonds and (B) one-twelfth (1/12th) of the Mandatory Sinking Fund Redemption Requirement;
(v) on the dates set forth in any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds, the amount(s) set forth therein to be paid by the Borrower in respect of the principal of such Additional Bonds (whether at maturity or under any mandatory sinking fund or other similar redemption requirements of any supplemental indenture or indentures executed in connection with the issuance of such Additional Bonds);

(vi) on the Business Day prior to any date on which the Series 2014 Bonds are to be redeemed pursuant to the mandatory redemption provisions hereof (other than mandatory sinking fund redemption), an amount equal to the Redemption Price of the Series 2014 Bonds to be redeemed (taking into account amounts then on deposit in the Bond Fund and the Redemption Fund available to be used for the payment of such Series 2014 Bonds to be redeemed); and

(vii) on the Business Day prior to any date on which any Additional Bonds are to be redeemed pursuant to any mandatory redemption provisions of any supplemental indenture or indentures executed in connection with the issuance of Additional Bonds (other than mandatory sinking fund or other similar redemption pursuant to such supplemental indenture or indentures), an amount equal to the Redemption Price of such Additional Bonds to be redeemed (taking into account amounts then on deposit in the Bond Fund and the Redemption Fund available to be used for the payment of such Additional Bonds to be redeemed);

(b) there will be paid to the Trustee:

(i) promptly upon request, an amount equal to the annual fee of the Trustee for the Ordinary Services of the Trustee rendered, and the Ordinary Expenses of the Trustee incurred, under the Indenture and under the other Bond Documents, as and when the same shall become due,

(ii) promptly upon request, the reasonable fees and charges of the Trustee, as bond registrar and paying agent, and of any other paying agents on the Bonds for acting as paying agents as provided in the Indenture, as and when the same shall become due, and

(iii) promptly upon request, the reasonable fees and charges of the Trustee for the Extraordinary Services of the Trustee rendered by it, and the Extraordinary Expenses of the Trustee incurred by it, under the Indenture and under the other Bond Documents, as and when the same shall become due; provided, that the Borrower will be permitted, without creating an Event of Default under the Indenture, to contest in good faith the reasonableness of any such Extraordinary Services of the Trustee and Extraordinary Expenses of the Trustee and the reasonableness of any such fees, charges, or expenses;

(c) there will be paid to the Issuer:

(i) (as certified in writing to the Trustee by the Issuer) on the twentieth (20th) day of each month (or the immediately succeeding Business Day if the twentieth (20th) day of a month is not a Business Day), an amount sufficient to reimburse the Issuer for all expenses incurred by the Issuer under the Loan Agreement in connection with the Bonds and the [Series 2014] Project, or the later audit, inquiry, investigation, modification, amendment, or interpretation of the Bonds or the Project, including, but not limited to, the reasonable fees and expenses of counsel for the Issuer and Bond Counsel; and

(ii) on November 1 of each year, commencing on November 1, 2014, for the account of the Issuer, the Issuer Annual Maintenance Fee in accordance with the provisions of the Loan Agreement described above under the subheading “THE LOAN AGREEMENT - Loan Payments and Other Amounts Payable – Additional Loan Payments” and “Issuer’s Annual Maintenance Fee.”

(d) there will be paid to the Borrower on the twentieth (20th) day of each month (or the immediately succeeding Business Day if the twentieth (20th) day of a month is not a Business Day) for deposit into the Operating Account an amount equal to the lesser of (i) the greater of (A) the amount budgeted in the Annual Budget for Expenses for the immediately succeeding month or (B) any amount necessary to meet the minimum balance requirement, which, for purposes of the Indenture will be an amount equal to ten percent (10%) of the Expenses shown in the then current Annual Budget or (ii) the excess, if any, of (A) the amount budgeted in the Annual Budget for Expenses for the then current Annual Period through the last day of the immediately succeeding month over
(B) the amount theretofore deposited into the Operating Account pursuant to the provisions of the Indenture described in this paragraph for the then current Annual Period; provided, however, if, during any Annual Period, it shall be determined that an Operating Account Surplus shall have been created with respect to the immediately preceding Annual Period, such payment to the Borrower will be reduced by the amount of such Operating Account Surplus, if any, and the amount of the Operating Account Surplus, if any, will then be adjusted by the amount of such reduction;

(e) if any funds shall be withdrawn from the Debt Service Reserve Fund, if there shall be a diminution in Value of the cash and investments held in the Debt Service Reserve Fund as of any Valuation Date, or if any net losses shall result from the investment of amounts held in the Debt Service Reserve Fund that shall reduce the Value of the cash and investments in the Debt Service Reserve Fund to less than the Debt Service Reserve Requirement as of any Valuation Date, there will be transferred to the Debt Service Reserve Fund, beginning on the twentieth (20th) day of the month following notice from the Trustee of such withdrawal, diminution in Value, or losses, and on the twentieth (20th) day of each month thereafter, twelve (12) consecutive monthly payments, each equal to one-twelfth (1/12th) of the amount of such withdrawal, diminution in Value, or losses;

(f) if any funds shall be withdrawn from the Repair and Replacement Fund to pay Debt Service Payments on the Bonds in accordance with the Indenture, there will be transferred to the Repair and Replacement Fund, beginning on the twentieth (20th) day of the month following any such withdrawal and continuing on the twentieth (20th) day of each month thereafter the greater of (i) the lesser of (A) one-twelfth (1/12th) of the amount of such withdrawal or (B) such amount that is necessary to reimburse the Repair and Replacement Fund for all such withdraws, or (ii) such amount as shall be directed by the Borrower;

(g) there will be transferred to the Repair and Replacement Fund, commencing on [September] 20, [2015], and on the twentieth (20th) day of each month thereafter to and including June, [2016], in equal monthly installments, [one-tenth (1/10th)] of the amount shown on a schedule attached to the Indenture, which initially equals $______________ per [unit/bed] contained in the Project per year, and on the twentieth (20th) day of each month thereafter, in equal monthly installments, one-twelfth (1/12th) of the amount shown on such schedule attached to the Indenture, and any and all additional amounts required to be deposited therein by any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds;

(h) there will be transferred to the Rebate Fund and the Account(s) therein on the dates that the Borrower provides any calculation of the Rebate Amount to the Trustee in accordance with the Indenture, the amounts determined by the Borrower to be equal to the excess, if any, of the Rebate Amount so calculated over the amount then in the Rebate Fund;

(i) there will be transferred to the appropriate fund or funds other than the Repair and Replacement Fund, the Operations Contingency Fund, and the Surplus Fund, any and all additional amounts required to be deposited into such fund or funds by any amendment or amendments to the Loan Agreement executed in connection with the issuance of Additional Bonds on the date(s) specified therein;

(j) provided no Event of Default shall have occurred and then be continuing, any amounts remaining therein on the last Business Day of each month will be transferred to the Operations Contingency Fund.

Bond Fund (Section 502)

The Bond Fund, the fund into which the monthly transfers described above under the heading “Revenue Fund,” monthly payments derived from the Loan Agreement, and certain other amounts specified in the Indenture will be deposited, will be maintained with the Trustee. Subject to the provisions of the Indenture described below under this heading or under the headings or subheading “Amounts Remaining in Funds and Accounts,” “Application of Funds,” and “The Trustee - Trustee’s Fees and Expenses,” moneys on deposit in the Bond Fund will be used solely to pay Debt Service Payments on the Bonds. However, upon the occurrence of an Event of Default under the Indenture, the Trustee will be permitted to use moneys in the Bond Fund for the benefit of the Bondholders and to pay the fees and expenses of the Trustee prior to making any payment to the Bondholders.

Within the Bond Fund, there will be created an account to be designated the “Capitalized Interest Account.” Within the Capitalized Interest Account, there will be created two (2) separate subaccounts designated, respectively, the “2014A Subaccount” and the “2014B Subaccount,” into which will be deposited a portion of the
proceeds of the Series 2014A Bonds and the Series 2014B Bonds, respectively. See “ESTIMATED SOURCES AND USES OF FUNDS” in the Official Statement. The Trustee will also establish separate subaccounts within the Capitalized Interest Account with respect to each Subseries of Additional Bonds.

On each date that transfers to the Bond Fund are required by the provisions of the Indenture described in items (i), (ii), or (iii) of clause (a) under the heading “Revenue Fund” above while there are funds on deposit in the Capitalized Interest Account, the Trustee will be required to transfer (a) from the 2014A Subaccount of the Capitalized Interest Account to the Bond Fund the lesser of (i) an amount equal to any such transfer required in respect of the Series 2014A Bonds on that date or (ii) the amount remaining in the 2014A Subaccount of the Capitalized Interest Account, (b) from the 2014B Subaccount of the Capitalized Interest Account to the Bond Fund the lesser of (i) an amount equal to any such transfer required in respect of the Series 2014B Bonds on that date or (ii) the amount remaining in the 2014B Subaccount of the Capitalized Interest Account, and (c) from any other subaccount of the Capitalized Interest Account created in respect of a Subseries of Additional Bonds to the Bond Fund the lesser of (i) an amount equal to any such transfer required in respect of such Subseries of Bonds on that date or (ii) the amount remaining in such subaccount. **Amounts in the 2014A Subaccount will not be permitted to be used to pay interest on the Series 2014B Bonds.**

Upon the occurrence of an Event of Default, the Trustee may use moneys in the Bond Fund to pay the fees and expenses of the Trustee prior to the making of any payments to the Bondholders.

If on any Bond Payment Date there are insufficient funds in the Bond Fund and the Redemption Fund available therefor to pay Debt Service Payments on the Bonds then due, the Trustee will be required to transfer to the Bond Fund an amount equal to such insufficiency from the following funds in the following order of priority: first, the Surplus Fund (including, if necessary, the Restricted Account of the Surplus Fund), second, the Operations Contingency Fund, third, the Debt Service Reserve Fund, and fourth, the Repair and Replacement Fund.

**Redemption Fund (Section 503)**

The Redemption Fund will be a trust fund into which moneys will be required to be deposited prior to being used to redeem or purchase Bonds in accordance with the provisions of the Indenture. Subject to the provisions of the Indenture described below under this heading or under the headings or subheading “Amounts Remaining in Funds and Accounts,” “Application of Funds,” and “The Trustee - Trustee’s Fees and Expenses,” moneys in the Redemption Fund will be used only to pay the principal of Bonds or that portion of the Redemption Price of Bonds corresponding to principal in the manner described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Other Redemptions at Par.”

The Trustee will establish a separate Account within the Redemption Fund with respect to each Series of Bonds or, if more than one Subseries of Bonds shall be issued on the same date, with respect to each such Subseries of Bonds. Any amounts required to be deposited in the Redemption Fund for the redemption of a particular Series or Subseries of Bonds in accordance with any of the Bond Documents will be deposited in the applicable Account or Accounts thereof, and, prior to the occurrence of an Event of Default, any amounts in an Account of the Redemption Fund may be used only to make payments on the Subseries of Bonds in respect of which such Account was established.

Upon the occurrence of an Event of Default, the Trustee may use moneys in the Redemption Fund to pay the fees and expenses of the Trustee prior to the making of any payments to the Bondholders.

**Issuance Cost Fund (Section 504)**

The Issuance Cost Fund will be a trust fund used to pay Issuance Costs and will be funded with proceeds of the sale of the Series 2014 Bonds. See “ESTIMATED SOURCES AND USES OF FUNDS” in the Official Statement. The amounts held in the Issuance Cost Fund will be disbursed by the Trustee to pay Issuance Costs upon receipt of a requisition for payment executed by the Authorized Borrower Representative setting forth the nature of the Issuance Costs to be paid and the name of the payee and certifying that the amounts being paid are properly includable within the definition of Issuance Costs. Any moneys remaining in the Issuance Cost Fund on the earlier of the receipt by the Trustee of a certificate of the Borrower stating that all Issuance Costs relating to the Series 2014 Bonds have been paid or one year from the Closing Date will be transferred to the Construction Fund.
Construction Fund (Section 505)

A portion of the proceeds of the Series 2014 Bonds will be deposited in the Construction Fund. See “ESTIMATED SOURCES AND USES OF FUNDS” in the Official Statement. Money in the Construction Fund will be applied to payment of the Costs of the Project, including reimbursement to the Borrower for Costs of the Project previously incurred by the Borrower. Any money remaining in the Construction Fund on the Series 2014 Completion Date will be transferred (i) to the Bond Fund and used for the payment of principal of the Series 2014A Bonds provided the Borrower shall deliver to the Trustee a Favorable Opinion of Bond Counsel or (ii) if the Borrower shall fail to deliver such an opinion, to the Redemption Fund by the Trustee and used to redeem Series 2014A Bonds in the manner described in the Official Statement under the subheading “THE SERIES 2014 BONDS -Redemption -- Other Redemptions at Par.”

Moneys in the Construction Fund (other than moneys being reimbursed to the Borrower) will be permitted to be disbursed by the Trustee only upon receipt of a requisition in which the Borrower shall have certified that the expenditures are proper charges against the Construction Fund and have not been previously paid, accompanied by a cost breakdown showing the cost of labor and materials furnished and the percentage of completion certified by the appropriate contractor.

Debt Service Reserve Fund (Section 506)

(a) Under the Indenture, a Debt Service Reserve Fund will be created and will be funded initially from the sale of the Series 2014A Bonds in an amount equal to the Debt Service Reserve Requirement for the Series 2014A Bonds on and as of the Closing Date. Under the Indenture, the Trustee will be authorized to transfer to the Bond Fund amounts held in the Debt Service Reserve Fund to pay the Debt Service Payments then due on the Series 2014A Bonds and on any Additional Bonds that are Tax-Exempt Bonds to the extent that there are insufficient funds for said purposes in the Bond Fund, the Redemption Fund, the Surplus Fund (including, if necessary, the Restricted Account of the Surplus Fund), and the Operations Contingency Fund available therefor on the date such Debt Service Payments are due. Any withdrawals for this purpose from the Debt Service Reserve Fund will be required to be restored by payments of Reserve Loan Payments by the Borrower. See “THE LOAN AGREEMENT -- Reserve Loan Payments” herein. The moneys in the Debt Service Reserve Fund will not be available to pay Debt Service Payments on the Series 2014B Bonds or (ii) any Additional Bonds that are not Tax-Exempt Bonds. If Additional Bonds are issued, the Debt Service Reserve Fund will be required to be increased by an amount equal to the Debt Service Reserve Requirement, if any, for such Additional Bonds.

(b) On the final maturity date of the Bonds any moneys in the Debt Service Reserve Fund will be permitted to be used upon receipt of written instruction from the Borrower to pay the Debt Service Payments on the Bonds on such final maturity date. In the event of the redemption of the Bonds in whole, any moneys in the Debt Service Reserve Fund will be transferred upon receipt of written instruction from the Borrower to the Bond Fund and applied to the payment of the principal of and premium, if any, on the Bonds.

(c) If, as a result of the valuation of the investments held in the Debt Service Reserve Fund as of any Valuation Date, the balance of the Debt Service Reserve Fund shall be greater than the Debt Service Reserve Requirement for the Bonds, all amounts in the Debt Service Reserve Fund in excess of the Debt Service Reserve Requirement for the Bonds will be transferred pro rata to the Accounts of the Bond Fund corresponding to the Series 2014A Bonds and to any Subseries of Additional Bonds that are Tax-Exempt Bonds; provided, however, if (i) on any date on which all or any portion of a Series or Subseries of Tax-Exempt Bonds shall be defeased in accordance with the provisions of the Indenture described below under the heading “Discharge of Lien” the balance of the Debt Service Reserve Fund shall be greater than the Debt Service Reserve Requirement (after such defeasance) and (ii) the Borrower shall give written instructions to the Trustee, all amounts in the Debt Service Reserve Fund in excess of the Debt Service Reserve Requirement (after such defeasance) will be permitted to be used to pay the principal of or premium on the defeased Bonds or, if the Borrower shall provide the Issuer and the Trustee with a Favorable Opinion of Bond Counsel, in such other manner as shall be directed by the Borrower.

Repair and Replacement Fund (Section 507)

The Repair and Replacement Fund will be a trust fund into which the Borrower will be required to make monthly deposits. See “THE LOAN AGREEMENT -- Loan Payments and Other Amounts Payable” herein. The moneys in the Repair and Replacement Fund will be disbursed by the Trustee to pay the maintenance and repair
costs related to the Project that the Borrower will be obligated to pay pursuant to the Loan Agreement and the Debt Service Payments on the Bonds to the extent there are insufficient funds in the Bond Fund, the Redemption Fund, the Surplus Fund (including, if necessary, the Restricted Account of the Surplus Fund), the Operations Contingency Fund, and the Debt Service Reserve Fund available therefor on the date such Debt Service Payments are due.

Insurance and Condemnation Funds (Section 508)

The Insurance Fund and the Condemnation Fund will be trust funds into which, under certain circumstances, the Net Proceeds of insurance and condemnation awards, respectively, will be deposited and used to repair, rebuild, restore, or replace the Project or to prepay Basic Loan Payments. Moneys in the Insurance Fund or the Condemnation Fund that are used to repair, rebuild, restore, or replace the Project will be disbursed substantially in accordance with the procedures for making disbursements under the Construction Fund. See “THE LOAN AGREEMENT -- Damage and Destruction” and “-- Condemnation” herein.

The Trustee will also establish a separate Account within the Insurance Fund and within the Condemnation Fund with respect to each Series of Additional Bonds issued under the Indenture. Any amounts required to be deposited in the Insurance Fund or in the Condemnation Fund in accordance with the Loan Agreement will be deposited in the applicable Account thereof, and, prior to the occurrence of an Event of Default, any amounts in an Account of the Insurance Fund or the Condemnation Fund may be used only to restore that portion of the Project in respect of which such Account was established, to acquire land and/or improvements in substitution for that portion of the Project in respect of which such Account was established, or to make payments on the Series of Bonds in respect of which such Account was established.

Operations Contingency Fund (Section 509)

The Operations Contingency Fund will be a trust fund into which moneys remaining in the Revenue Fund, after the disbursements described above under the heading “Revenue Fund,” will be transferred. Moneys in the Operations Contingency Fund may be used to pay Expenses of, or to make capital expenditures in respect of, the Project. Moneys in the Operations Contingency Fund may also be used to make the transfers and deposits required by the provisions of the Indenture described in the first paragraph under the heading “Revenue Fund” above to the extent that there are insufficient funds in the Revenue Fund, the Bond Fund, the Redemption Fund, and the Surplus Fund (including, if necessary, the Restricted Account of the Surplus Fund) available therefor on such date. All amounts remaining in the Operations Contingency Fund on the last day of each Annual Period will be transferred to the Surplus Fund.

Surplus Fund (Section 510)

The Surplus Fund will be a trust fund into which moneys remaining in the Operations Contingency Fund will be transferred on the last day of each Annual Period.

Provided (i) no Event of Default shall have occurred and then be continuing, (ii) all amounts withdrawn from the Repair and Replacement Fund to pay Debt Service Payments on the Bonds in accordance with the Indenture shall have been reimbursed in full, and (iii) all amounts withdrawn from the Debt Service Reserve Fund to pay Debt Service Payments on the Bonds in accordance with the Indenture shall have been reimbursed in full, upon receipt by the Trustee of the annual financial statements and Audit Report for the most recently ended Annual Period and the Borrower’s calculation of the Fixed Charges Coverage Ratio provided to the Trustee in accordance with the provisions of the Loan Agreement indicating a Fixed Charges Coverage Ratio of at least 1.20, the Trustee will pay to the Manager from moneys on deposit in the Surplus Fund the lesser of the Fixed Charges Coverage Surplus or all unpaid subordinated fees due to the Manager under the Management Agreement.

After any payments pursuant to the provisions of the Indenture described in the immediately preceding paragraph shall have been made, if the annual financial statements, Audit Report, and accompanying calculation indicate a Fixed Charges Coverage Ratio (after payment of all unpaid subordinated fees due to the Manager under the Management Agreement) of at least 1.20, the Trustee will transfer all amounts in the Surplus Fund (including any amounts in the Restricted Account of the Surplus Fund) to the Ground Sublessor in accordance with the provisions of the Ground Sublease.
To the extent any amounts in the Surplus Fund may not be transferred to the Ground Lessor pursuant to the provisions of the Indenture described in the immediately preceding paragraph, all such amounts will be transferred to the Restricted Account of the Surplus Fund and will remain therein until such time as (i) the Borrower shall demonstrate, by the delivery of annual financial statements, an Audit Report, and an accompanying calculation, a Fixed Charges Coverage Ratio (after payment of all unpaid subordinated fees due to the Manager under the Management Agreement) of at least 1.20, in which case and at which time such amounts will be transferred to the Ground Lessor in accordance with the provisions of the Ground Sublease as shall be set forth in a written invoice approved by the Ground Sublessor and the Borrower or (ii) such funds are otherwise applied in accordance with the Indenture.

Amounts Remaining in Funds and Accounts (Section 514)

Any amounts remaining in the Revenue Fund, the Bond Fund, the Redemption Fund, the Issuance Cost Fund, the Construction Fund, the Debt Service Reserve Fund, the Repair and Replacement Fund, the Insurance Fund, the Condemnation Fund, the Operations Contingency Fund, the Surplus Fund, or any other Fund, Account, or reserve created under the Indenture, with the exception of the Rebate Fund, after payment in full of the Debt Service Payments on the Bonds (or provision for payment thereof as provided in the Indenture), the fees, charges, and expenses of the Trustee, any paying agents, and the Issuer, the amounts required to be paid to the United States pursuant to the Loan Agreement, and all other amounts required to be paid under the Indenture, will be promptly paid to [the Ground Sublessor and/or the Borrower in accordance with the provisions of the Ground Sublease at such times and in such amounts as shall be set forth in a written invoice approved by the Ground Sublessor and the Borrower].

Rebate Fund (Section 511)

(a) The Rebate Fund will be a trust fund established for the purpose of complying with §148 of the Code and the Regulations promulgated thereunder. The money deposited in the Rebate Fund, together with all investments thereof and investment income therefrom, will be held in trust and applied solely as described under this heading. The Rebate Fund will not be a portion of the Trust Estate and will not be subject to the lien of the Indenture. Amounts in the Rebate Fund shall not be used to make Debt Service Payments.

(b) There will be deposited in each Account of the Rebate Fund as and when received (i) moneys required to be paid by the Borrower pursuant to the provisions of the Loan Agreement described above in (b)(i)(C) under the heading “THE LOAN AGREEMENT - Loan Payments and Other Amounts Payable – Additional Loan Payments,” (ii) moneys transferred from the Surplus Fund, the Operations Contingency Fund, the Debt Service Reserve Fund, the Repair and Replacement Fund, the Issuance Cost Fund, the Construction Fund, and/or the Bond Fund pursuant to the provisions described in (f) below, and (iii) all other moneys received by the Trustee when accompanied by directions not inconsistent with the Loan Agreement or the Indenture that such moneys are to be paid into the Account of the Rebate Fund designated therein.

(c) With respect to each Series of Tax-Exempt Bonds, promptly after each Rebate Year, and not later than thirty (30) days after all Bonds of such Series shall have been Discharged, the Borrower will be required to engage, and furnish information to, the Rebate Analyst and cause the Rebate Analyst to calculate the Rebate Amount with respect to such Series of Tax-Exempt Bonds. The Borrower will be required to provide, or cause the Rebate Analyst to provide, to the Issuer and Trustee a copy of the report of the Rebate Analyst. The Trustee shall determine if the amount in the applicable Account(s) of the Rebate Fund is then equal to the calculated Rebate Amount. If the amount in such Account(s) of the Rebate Fund shall be in excess of the amount required to be therein in accordance with the report of the Rebate Analyst, then such excess will be transferred to the Bond Fund. If the amount in such Account(s) of the Rebate Fund shall be less than the amount required to be deposited therein, the Trustee will transfer to such Account(s) of the Rebate Fund such amounts as shall be necessary to reserve for the anticipated Rebate Amount payment to the United States Treasury from the Revenue Fund in accordance with the provision(s) of the Indenture described above in (h) under the heading “Revenue Fund.”

(d) If at any time the Borrower shall be required to retain the Rebate Analyst but shall fail to do so, then the Issuer will be required to retain a Rebate Analyst, at the expense of the Borrower, to calculate the Rebate Amount. If the Issuer shall be required to retain or to pay the Rebate Analyst, then the Issuer, after delivering to the Borrower a demand for payment of an amount sufficient to pay the Rebate Analyst, will be required to direct the Trustee to withdraw such amount as may be needed to pay the Rebate Analyst from the following funds in the
following order of priority: first, the Surplus Fund (including, if necessary, the Restricted Account of the Surplus Fund), second, the Operations Contingency Fund, third, the Debt Service Reserve Fund, fourth, the Repair and Replacement Fund, fifth, the Issuance Cost Fund, sixth, the Construction Fund, and seventh, the Bond Fund.

(e) The Trustee, on behalf of the Issuer, will be directed to pay to the United States Treasury from time to time the amounts as required by the report of the Rebate Analyst, provided that the Trustee will be required to pay over to the United States Treasury: (i) at least once each five (5) years after the Closing Date of a Series of Tax-Exempt Bonds within sixty (60) days of the date as of which the Rebate Amount shall have been calculated, an amount equal to ninety percent (90%) of the Rebate Amount allocable to that Series of Tax-Exempt Bonds as of such date (and not theretofore paid to the United States Treasury) and (ii) not later than sixty (60) days after the last bond of a Series of Tax-Exempt Bonds shall have been Discharged, one hundred percent (100%) of the Rebate Amount allocable to such Series of Tax-Exempt Bonds.

(f) If, at any time when the Trustee shall be required to withdraw money from any Account(s) of the Rebate Fund, the amount on deposit in such Account(s) of the Rebate Fund shall be insufficient for the purposes thereof, notwithstanding any investment of moneys requirements in the Indenture, the Trustee, after first delivering a demand for such deficiency to the Borrower and no money for such purpose having been provided by the Borrower, will be required to transfer moneys to such Account(s) of the Rebate Fund from the following funds in the following order of priority: first, the Surplus Fund (including, if necessary, the Restricted Account of the Surplus Fund), second, the Operations Contingency Fund, third, the Debt Service Reserve Fund, fourth, the Repair and Replacement Fund, fifth, the Issuance Cost Fund, sixth, the Construction Fund, and seventh, the Bond Fund.

(g) The Trustee will be required to comply with the instructions contained in the Indenture and in the Tax Agreement provided that computations and payments may be made on other bases, at other times, and in other amounts, or omitted altogether, all as shall be set forth in a Favorable Opinion of Bond Counsel (the “Subsequent Rebate Instructions”), even if such Subsequent Rebate Instructions shall be different from or inconsistent with the provisions of the Indenture described under this heading.

(h) The provisions of the Indenture described under this heading will supersede the provisions of all other Sections of the Indenture, to the end that the excludability from gross income for the purposes of federal income taxation of interest on Series of Tax-Exempt Bonds shall not be adversely affected as a result of the inadequacy at any time of the Rebate Fund, unless the total amount held by the Trustee under all Funds established hereunder shall be insufficient.

Investment of Funds and Accounts (Section 701)

Subject to the provisions of the Indenture described below under the heading “Discharge of Lien,” any moneys held as part of the Revenue Fund, the Bond Fund, the Redemption Fund, the Issuance Cost Fund, the Construction Fund, the Debt Service Reserve Fund, the Repair and Replacement Fund, the Insurance Fund, the Condemnation Fund, the Operations Contingency Fund, the Surplus Fund, the Rebate Fund, reserves in connection with contested liens, other special trust funds created under the Indenture, or other Funds or Accounts held by the Trustee will be invested and reinvested by the Trustee, at the written direction of, and as specified by, the Authorized Borrower Representative. Any such investments will be held by or under the control of the Trustee and will be deemed at all times a part of the Revenue Fund, the Bond Fund, the Redemption Fund, the Issuance Cost Fund, the Construction Fund, the Debt Service Reserve Fund, the Repair and Replacement Fund, the Insurance Fund, the Condemnation Fund, the Operations Contingency Fund, the Surplus Fund, the Rebate Fund, reserves in connection with contested liens, other special trust funds created under the Indenture, or other Funds or Accounts held by the Trustee, as the case may be, and the interest accruing thereon and any profit realized from such investments will be credited as described below under the heading “Allocation of Income from Investments,” and any loss resulting from such investments will be charged to such Fund. The Trustee will be directed to sell and reduce to cash funds a sufficient amount of such investments whenever the cash balance in any Fund or Account shall be insufficient for the uses prescribed for moneys held in such Fund or Account. The Trustee will be permitted to transfer investments from any Fund or Account to any other Fund or Account in lieu of cash when required or permitted by the provisions of the Indenture. The Trustee will be required to value the investments held in the Debt Service Reserve Fund as of the close of business on each Valuation Date and to deliver copies of such valuation promptly to the Issuer, the Borrower, and the Underwriter. In computing the assets of any Fund or Account, investments and accrued interest thereon will be deemed a part thereof. The Trustee will not be liable for any
depreciation in the Value of any obligations in which moneys of Funds or Accounts shall be invested, as aforesaid, or for any loss arising from any investment. Such investments will be permitted to be made only as follows:

(a) moneys in the Revenue Fund, the Issuance Cost Fund, the Construction Fund, the Repair and Replacement Fund, the Operations Contingency Fund, the Surplus Fund (excluding the Restricted Account of the Surplus Fund), the Rebate Fund, and any other Funds or Accounts (other than as described in (b) through (e) below) only in Permitted Investments maturing or redeemable at the option of the holder in such amounts and on such dates as may be necessary to provide moneys to meet the payments from each such respective Fund or Account as may be specified by the Authorized Borrower Representative,

(b) moneys in the Bond Fund only in Permitted Investments of the type described in items (i) through (viii) of the definition thereof maturing or redeemable at the option of the holder not later than the immediately succeeding Bond Payment Date,

(c) moneys in the Redemption Fund and the Restricted Account of the Surplus Fund only in Permitted Investments of the type described in items (i) through (viii) of the definition thereof maturing or redeemable at the option of the holder not later than the immediately succeeding Bond Payment Date and (i) in obligations the interest on which is excluded from the gross income of the owners thereof for federal income tax purposes or (ii) at a yield that is not greater than the yield on the Tax-Exempt Bonds for the redemption of which such moneys have been deposited therein,

(d) moneys in the Insurance Fund and the Condemnation Fund only in Permitted Investments maturing or redeemable at the option of the holder in such amounts and on such dates as may be necessary to provide moneys to meet the payments from each such respective Fund and (i) in obligations the interest on which is excluded from the gross income of the owners thereof for federal income tax purposes or (ii) at a yield that is not greater than the yield on the Tax-Exempt Bonds the proceeds of which were used to finance or refinance the portion of the Project relating to such insurance or condemnation proceeds, and

(e) moneys in the Debt Service Reserve Fund only in Permitted Investments maturing or redeemable at the option of the holder not later than two (2) years from the date of purchase thereof; provided, however, if moneys in the Debt Service Reserve Fund shall be invested in a Permitted Investment of the type described in items (xi) or (xii) of the definition thereof that permit the Borrower to withdraw amounts invested thereunder at any time without penalty, such Permitted Investment may have a term of up to ten (10) years.

**Allocation of Income from Investments (Section 702)**

(a) All interest accruing from investments of moneys in the following Funds and Accounts and any profit realized therefrom will be allocated as follows:

(i) interest and profits from the investments of moneys in the Revenue Fund will be retained in the Revenue Fund,

(ii) interest and profits from the investments of moneys in the Bond Fund and in the Accounts and subaccounts therein will be retained in the Bond Fund and in such Accounts and subaccounts, respectively,

(iii) interest and profits from the investments of moneys in the Redemption Fund and any Account therein will be deposited into the Bond Fund,

(iv) interest and profits from the investments of moneys in the Accounts of the Issuance Cost Fund will be deposited into the corresponding (by Series and Subseries) Accounts of the Construction Fund,

(v) interest and profits from the investment of moneys in the Construction Fund and the Accounts therein will be retained in the Construction Fund and in such Accounts, respectively,

(vi) interest and profits from the investment of moneys in the Debt Service Reserve Fund will be retained in the Debt Service Reserve Fund,
(vii) interest and profits from the investment of moneys in the Repair and Replacement Fund will be retained in the Repair and Replacement Fund,

(viii) interest and profits from the investment of moneys in the Insurance Fund and the Account(s) therein will be retained in the Insurance Fund and in such Account(s), respectively,

(ix) interest and profits from the investment of moneys in the Condemnation Fund and the Account(s) therein will be retained in the Condemnation Fund and in such Account(s), respectively,

(x) interest and profits from the investment of moneys in the Operations Contingency Fund will be retained in the Operations Contingency Fund,

(xi) interest and profits from the investment of moneys in the Surplus Fund and the Restricted Account therein will be retained in the Surplus Fund and in such Account, respectively,

(xii) subject to provisions of the Indenture described above under the heading “Rebate Fund,” interest and profits from the investment of moneys in the Rebate Fund will be retained in the Rebate Fund, and

(xiii) interest and profits from the investment of moneys in any other Funds or Accounts will, at the written direction of the Authorized Borrower Representative, be retained in the respective Funds or Accounts or deposited into the Bond Fund.

(b) Notwithstanding the provisions of the Indenture described in (a) of this heading, any interest or other gain from any Fund or Account will be required to be transferred to the Rebate Fund to the extent required on behalf of the Borrower by the provisions of the Indenture described above in (f) under the heading “Rebate Fund,” except that no such transfer shall be made from any Fund or Account if such transfer would cause the amount then on deposit in such Fund or Account to be less than required by the provisions, if any, of the Indenture.

**Trustee’s Own Bond or Investment Department (Section 703)**

The Trustee may make any and all investments described under the heading “Investment of Funds and Accounts” above through its own bond or investment department.

**Discharge of Lien (Section 901)**

(a) When:

(i) if the Bonds or a Series or Subseries of Bonds shall have become due and payable in accordance with the terms thereof or otherwise as provided in the Indenture, the whole amount of the Debt Service Payments so due and payable on all such Bonds shall be paid, or

(ii) if the Bonds or a Series or Subseries of Bonds shall not have become due and payable in accordance with the terms thereof, but:

   (A) the Trustee shall hold cash and/or Defeasance Obligations, the principal of and the interest on which, when due and payable, will, together with such cash, provide sufficient money to pay the Debt Service Payments on all such Bonds then Outstanding to the maturity date or dates of such Bonds or to the date or dates specified for the redemption thereof and the Issuer will be required to cause to be delivered to the Trustee a verification or other appropriate report to such effect issued by an Accountant, and

   (B) if such Bonds are to be called for redemption, irrevocable instructions to call such Bonds for redemption shall have been given by the Issuer to the Trustee,

and in either of such event sufficient funds shall also have been provided or provision shall have been made for paying all other obligations payable under the Bond Documents with respect thereto, including any Rebate Amount,
then and in that case, the Bonds or such Series or Subseries of Bonds shall no longer be, or considered to be, Outstanding and the right, title, and interest of the Trustee in the Funds and Accounts, if any, established with respect to the Bonds or such Series or Subseries of Bonds will then cease, determine, and become void and, on demand of the Issuer and upon being furnished with an Opinion of Counsel, in form and substance satisfactory to the Trustee, to the effect that all conditions precedent to the release of the Indenture or that portion, if any, of the Trust Estate relating to such Series or Subseries of Bonds shall have been satisfied, the Trustee will be required to release the Indenture or that portion, if any, of the Trust Estate relating to such Series or Subseries of Bonds, to execute such documents to evidence such release as may be reasonably required by the Issuer, and, subject to the provisions of the Indenture described above in (b) and (c) under the heading “Debt Service Reserve Fund,” to transfer any surplus in, and all balances remaining in, all such Funds and Accounts to [the Ground Sublessor and/or the Borrower in accordance with the provisions of the Ground Sublease at such times and in such amounts as shall be set forth in a written invoice approved by the Ground Sublessor and the Borrower].

(b) If Defeasance Obligations shall be deposited with and held by the Trustee as hereinabove described, (i) in addition to the requirements of the Indenture described in the Official Statement under the subheading “THE SERIES 2014 BONDS - Redemption -- Notice of Redemption; Cessation of Interest,” but not as a condition to defeasance, the Trustee, within thirty (30) days after such cash and/or Defeasance Obligations shall have been deposited with it, will be required to cause a notice signed by the Trustee to be mailed, postage prepaid, to all Owners of Bonds to be paid or redeemed, setting forth (A) the date or dates, if any, designated for the redemption of such Bonds, (B) a description of the Defeasance Obligations so held by it, and (C) that the Indenture or that portion, if any, of the Trust Estate relating to such Series or Subseries of Bonds has been released in accordance with the provisions of the Indenture and (ii) the Trustee will, nevertheless, retain such rights, powers, and privileges under the Indenture as may be necessary and convenient in respect of such Bonds (A) for the payment of the Debt Service Payments for which such Defeasance Obligations shall have been deposited and (B) for the registration, transfer, and exchange of such Bonds.

Events of Default (Section 1001)

Each of the following will be an Event of Default within the meaning of the Indenture:

(a) payment of any installment of interest on any Bond shall not be made by or on behalf of the Issuer when the same shall become due and payable; or

(b) payment of the principal of or the redemption premium, if any, on any Bond shall not be made by or on behalf of the Issuer when the same shall become due and payable, whether at maturity or by proceedings for redemption or pursuant to a Sinking Fund Requirement or otherwise; or

(c) the failure to perform in a punctual manner any other of the covenants, conditions, agreements, or provisions contained in the Indenture or any agreement supplemental thereto and the continuation of such failure for thirty (30) days after receipt by the Issuer of a written notice from the Trustee specifying such failure and requiring the same to be remedied; provided, however, that if such performance requires work to be done, action to be taken, or conditions to be remedied that by their nature cannot reasonably be done, taken, or remedied, as the case may be, within such thirty (30) day period, no Event of Default shall be deemed to have occurred or to exist if, and so long as, the Issuer shall begin such performance within such period and shall diligently and continuously prosecute the same to completion; or

(d) an “Event of Default” shall have occurred under any of the other Bond Documents other than the Continuing Disclosure Agreement.

Acceleration of Maturities (Section 1002)

On the happening and continuance of any Event of Default, the Trustee will be permitted and, on the written request of the Requisite Number of Bondholders, will be required, by notice in writing to the Issuer, the Borrower, and, if the Trustee is not the Dissemination Agent, the Dissemination Agent, to declare the principal of all Bonds then Outstanding (if not then due and payable) to be due and payable immediately, and on such declaration, the same will become and be immediately due and payable. Upon such declaration, interest on the Bonds will cease to accrue, and the Trustee will be required to notify the Owners of the Bonds and each Rating Agency promptly of
such declaration and that interest on the Bonds shall have ceased to accrue on and as of the date of such declaration. If at any time after the principal of the Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action, or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under the Indenture, money shall have accumulated in the Bond Fund sufficient to pay the principal of all matured Bonds and all arrearages of interest, if any, on all Bonds then Outstanding (except the principal of any Bonds not then due and payable by their terms and the interest accrued on such Bonds since the last Interest Payment Date), and the charges, compensations, expenses, disbursements, advances, and liabilities of the Trustee and all other amounts then payable by the Issuer under the Indenture shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and every other failure known to the Trustee in the observance or performance of any covenant, condition, or agreement contained in the Bonds, in the Indenture (other than a failure to pay the principal of such Bonds then due only because of a declaration described in this paragraph), and in the other Bond Documents (other than the Continuing Disclosure Agreement) shall have been remedied to the satisfaction of the Trustee, then and in every such case, the Trustee will be permitted, and on the written request of the Owners of not less than twenty-five percent (25%) in aggregate principal amount of the Outstanding Bonds not then due and payable by their terms (Bonds then due and payable only because of a declaration of acceleration will not be deemed to be due and payable by their terms), will be required, by written notice to the Issuer, the Borrower, the Owners of the Bonds, each Rating Agency, and, if the Trustee is not the Dissemination Agent, the Dissemination Agent, to rescind and annul such declaration and its consequences, but no such rescission or annulment will extend to or affect any subsequent Event of Default or impair any right consequent thereon. Upon any declaration of acceleration under the Indenture, the Trustee will be required to proceed immediately to exercise such rights as it may have under the Loan Agreement to declare all payments thereunder to be immediately due and payable.

Trustee May Bring Suit (Section 1003)

Whenever any Event of Default shall have occurred and be continuing, the Trustee will be permitted, and on the written request of the Requisite Number of Bondholders, will be required to proceed, subject to the provisions of the Indenture described below under the heading and subheading “Control of Proceedings by a Majority of the Bondholders” and “The Trustee - Indemnification of Trustee,” respectively, to protect and enforce its rights and the rights of the Owners under the laws of the State and under the Indenture, the other Security Documents, and the Notes by such suits, actions, or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant, condition, or agreement contained in the Indenture, or in the other Security Documents or the Notes or in aid or execution of any power granted in the Indenture or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights.

Application of Funds (Section 1004)

All money received by the Trustee pursuant to any right given or action taken under the Indenture (other than amounts held in the Rebate Fund) will, after payment of the costs and expenses of the proceedings resulting in the collection of such money and the fees and expenses of the Trustee, be deposited in the Bond Fund and applied to the payment of the Debt Service Payments on the Bonds then due and unpaid in accordance with the provisions of the Indenture. Anything in the Indenture to the contrary notwithstanding, if at any time the money in the Bond Fund shall not be sufficient to pay the interest on or the principal of the Bonds as the same shall become due and payable (either by their terms or by acceleration of maturities), such money, together with any money then available or thereafter becoming available for such purpose, whether through the exercise of the remedies described under this heading or otherwise, will be applied as follows:

(a) if the principal of all Bonds shall not have become, or shall not have been declared, due and payable, all such money will be applied as follows:

    first: to the payment to the Persons entitled thereto of all installments of interest on Bonds then due and payable in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds;
second: to the payment to the Persons entitled thereto of the unpaid principal of any Bonds that shall have become due and payable (other than Bonds deemed to have been paid under the Indenture as described above under the heading “Discharge of Lien”), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the principal of Bonds due and payable on any particular date, then to the payment ratably according to the amount of such principal due on such date, to the Persons entitled thereto without any discrimination or preference; and

third: to the payment of the interest on and the principal of Bonds, to the purchase and retirement of Bonds, and to the redemption of Bonds, all in accordance with the Indenture;

(b) if the principal of all Bonds shall have become, or shall have been declared, due and payable, all such money will be applied to the payment of principal and interest then due on the Bonds, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference; and

(c) if the principal of all Bonds shall have been declared due and payable and if such declaration thereafter shall have been rescinded and annulled as described above under the heading “Acceleration of Maturities,” then, subject to the provisions of the Indenture described in (b) above, if the principal of all Bonds shall later become due and payable or shall be declared due and payable, the money then remaining in and thereafter accruing to the Bond Fund will be applied in accordance with the provisions of the Indenture described in (a) above.

Discontinuance of Proceedings (Section 1005)

If any proceeding taken by the Trustee or the Owners on account of any Event of Default shall have been discontinued or abandoned for any reason, then, and in every such case, the Issuer, the Trustee, and the Owners will be restored to their former positions and rights under the Indenture and under the other Security Documents, respectively, and all rights, remedies, powers, and duties of the Trustee will continue as though no proceeding had been taken.

Control of Proceedings by a Majority of the Bondholders (Section 1006)

Anything else in the Indenture to the contrary notwithstanding, a Majority of the Bondholders will have the right, subject to the indemnification of the Trustee described below under the subheading “The Trustee - Indemnification of Trustee,” by an instrument or concurrent instruments in writing executed and delivered to the Trustee, (a) to direct the time, method, and place of conducting all remedial proceedings to be taken by the Trustee under the Indenture or under any other Security Document, whether before or after the occurrence of an Event of Default, if such direction shall be in accordance with law and the Indenture and (b) to approve any consent, approval, or waiver requested to be given by the Trustee under the Indenture.

Restrictions Upon Actions by Individual Owners (Section 1007)

Except as described below under the heading “Right to Enforce Payment of the Bonds Unimpaired,” no Owner will have any right to institute any suit, action, or proceeding in equity or at law on any Bond or for the execution of any trust under the Indenture or for any other remedy under the Indenture unless the Issuer or the Requisite Number of Bondholders previously shall have given to the Trustee written notice of the Event of Default on account of which such suit, action, or proceeding is to be instituted, and unless also the Issuer or the Owners shall have made a written request of the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove described or to institute such action, suit, or proceedings in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request, and offer of indemnity will, in every such case, at the option of the Trustee, be conditions precedent to the execution of the powers and trusts of the Indenture or to any other remedy thereunder. Notwithstanding the foregoing, and without complying therewith, the Requisite Number of Bondholders will be permitted to institute any such suit, action, or proceeding in their own names for the benefit of all Owners under the Indenture. It will be understood and intended by the Issuer and the Trustee that, except as otherwise above described, no one or more Owners will have any right in any manner whatsoever by his, her, its, or
their action to affect, disturb, or prejudice the security of the Indenture, or to enforce any right thereunder except in
the manner provided in the Indenture and described herein, that all proceedings at law or in equity will be required
to be instituted, had, and maintained in the manner provided in the Indenture and described herein and for the benefit
of all Owners and that any individual rights of action or other right given to one or more of such Owners by law will
be restricted by the Indenture to the rights and remedies therein provided.

Appointment of Receiver (Section 1008)

On the occurrence of an Event of Default and on the filing of a suit or other commencement of judicial
proceedings to enforce the rights of the Trustee and of the Owners under the Indenture, the Trustee will be entitled,
as a matter of right, to the appointment of a receiver or receivers of the amounts payable under the Loan Agreement
and the Notes as assigned to the Trustee under the Indenture, pending such proceedings, with such powers as the
court making such appointments shall confer, whether or not any such amounts shall be sufficient ultimately to
satisfy the Bonds then Outstanding.

Enforcement of Rights of Action (Section 1009)

All rights of action (including the right to file proof of claim) under the Indenture or under any Bonds will
be permitted to be enforced by the Trustee without the possession of any Bonds or the production thereof in any
proceedings relating thereto, and any such suit or proceedings instituted by the Trustee will be required to be
brought by the Trustee in its name as Trustee, without the necessity of joining as plaintiffs or defendants any
Owners secured by the Indenture, and any recovery of judgment will be for the equal benefit of the Owners.

No Remedy Exclusive (Section 1010)

No remedy conferred on or reserved to the Trustee or the Owners is intended to be exclusive of any other
remedy or remedies therein provided, and each and every such remedy shall be cumulative and in addition to every
other remedy given thereunder or now or hereafter existing at law or in equity.

Waivers (Section 1011)

No delay or omission by the Trustee or any Owner in the exercise of any right or power accruing on any
Event of Default will impair any such right or power or be construed to be a waiver of any Event of Default or any
acquiescence therein, and every power or remedy given by the Indenture to the Trustee and the Owners will be
permitted to be exercised from time to time and as often as may be deemed expedient.

The Trustee (Article XI)

Duties of the Trustee. The Trustee, prior to the occurrence of an Event of Default and after the waiving or
curing of all Events of Default that may have occurred, will undertake to perform such duties and only such duties as
are specifically set forth in the Indenture and in the other Bond Documents. In case an Event of Default of which
the Trustee shall have been notified or of which it is deemed to have notice as described below under the subheading
“Trustee Deemed to Have Notice of Certain Events of Default” shall have occurred (that shall not have been cured
or waived), the Trustee will be required to exercise such of the rights and powers vested in it by the Indenture and by
the other Bond Documents, and to use the same degree of care and skill in their exercise, as a prudent person would
exercise or use under the circumstances in the conduct of such person’s own affairs. (Section 1101)

Right of Trustee to Perform Duties through Others. The Trustee will be permitted to execute any of the
trusts or powers under the Indenture and of the other Bond Documents and perform any of its duties by or through
attorneys, accountants, agents, receivers, or employees, will not be responsible for the acts of any attorneys,
accountants, agents, or receivers appointed by it in good faith and without negligence, will be entitled to advice of
counsel concerning all matters of trusts of the Indenture and of the other Bond Documents and the duties thereunder,
and will be permitted in all cases to pay such reasonable compensation, subject to reimbursement, to all such
attorneys, accountants, agents, receivers, and employees as may be reasonably employed in connection with the
trusts of the Indenture. As to matters of law, the Trustee may act upon the opinion or advice of any attorneys (who
may be the attorney or attorneys for the Issuer or the Borrower) approved by the Trustee in the exercise of
reasonable care. The Trustee will not be responsible for any loss or damage resulting from any action or non-action
taken in good faith in reliance upon such opinion or advice. (Section 1101)
Reliance on Notices, Requests, etc. The Trustee will be permitted to rely upon and will be protected in acting in good faith upon any notice, request, resolution, consent, certificate, order, affidavit, letter, telegram, facsimile transmission, electronic mail, or other paper or electronic document or any oral communication or direction reasonably believed to be genuine and correct and to have been signed or sent or given by the proper Person or Persons in accordance with the provisions of any of the Bond Documents. As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper, or proceedings, the Trustee will be entitled to rely upon a certificate signed on behalf of the Issuer by the Authorized Issuer Representative or by the Chairman and attested by the Secretary and upon a certificate signed on behalf of the Borrower by the Authorized Borrower Representative or by the President or the Chairman of the Board of Directors of the Corporation and attested by the Secretary of the Corporation as sufficient evidence of the facts therein contained. Prior to the occurrence of an Event of Default of which the Trustee shall have been notified or of which it shall be deemed to have notice as described below under the subheading “Trustee Deemed to Have Notice of Certain Events of Default,” the Trustee will also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient, but will be permitted, at its discretion, to secure such further evidence deemed necessary or advisable, but will in no case be bound to secure the same. (Section 1101)

Trustee Deemed to Have Notice of Certain Events of Default. The Trustee will not be required to take notice or be deemed to have notice of any failure on the part of the Issuer to comply with the terms of the Indenture or any other Issuer Document or the Borrower to comply with the terms of the Loan Agreement or any other Borrower Document except (a) failure by the Issuer to cause to be made any of the payments to the Trustee required to be made by the provisions of the Indenture described above under the headings “Revenue Fund,” “Bond Fund,” “Redemption Fund,” “Issuance Cost Fund,” “Construction Fund,” “Debt Service Reserve Fund,” “Repair and Replacement Fund,” “Insurance and Condemnation Funds,” “Operations Contingency Fund,” “Surplus Fund,” and “Rebate Fund” and (b) failure by the Borrower to make any of the Loan Payments to the Trustee, unless the Trustee shall be specifically notified in writing of such failure by the Issuer or by the Requisite Number of Bondholders. Notwithstanding any other provision of the Indenture, no right of the Trustee to indemnification will relieve the Trustee from responsibility for making Debt Service Payments on the Bonds when due from money available to it or accelerating the Bonds as required by the Indenture. (Section 1101)

Trustee’s Fees and Expenses. The Trustee will be entitled to payment and/or reimbursement for reasonable fees for Ordinary Services of the Trustee rendered under the Indenture, and all advances, attorneys’ fees, and other Ordinary Expenses of the Trustee reasonably made or incurred by the Trustee in connection with such Ordinary Services of the Trustee, and in the event that the Trustee shall perform Extraordinary Services of the Trustee, it will be entitled to reasonable extra compensation therefor and to reimbursement for reasonable Extraordinary Expenses of the Trustee in connection therewith; provided, that if such Extraordinary Services of the Trustee or Extraordinary Expenses of the Trustee shall be the result of the negligence or willful misconduct of the Trustee, it will not be entitled to compensation or reimbursement therefor. The Trustee will be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as bond registrar and paying agent for the Bonds as hereinafore described. Notwithstanding any other provision of the Indenture or the Loan Agreement to the contrary, at all times while any Bonds are Outstanding, payments to the Trustee for services under the Indenture will be superior to the payment of Debt Service Payments on the Bonds, and the Trustee will have a first and prior lien on the Trust Estate for payment of its fees and expenses. (Section 1102)

Notice if Payment Default Occurs. If a failure to comply shall occur of which the Trustee shall be required to take notice or if notice of a failure to comply shall be given to the Trustee as provided in the provisions of Indenture described under the subheading “Notice of Default” above, the Trustee will be required to give written notice thereof to the Issuer as is specified in the Indenture and will be required to give written notice thereof by first-class mail, within fifteen (15) days (unless such failure shall be cured or waived), to all Bondholders, provided that, except in the case of a failure to make due and punctual payment of the Debt Service Payments on the Bonds, the Trustee may withhold such notice to the Bondholders if and so long as the board of directors, the executive committee, or a trust committee of directors or Responsible Officers of the Trustee in good faith shall determine that the withholding of such notice is in the interests of the Bondholders. (Section 1103)

Resignation by the Trustee. The Trustee and any successor Trustee will be permitted at any time to resign from the trusts created by the Indenture by giving thirty (30) days’ written notice to the Issuer, to the Borrower, to each Rating Agency, and, by first-class (postage prepaid) mail, to each Bondholder, and such resignation will take effect at the appointment of a successor Trustee pursuant to the provisions of the Indenture and acceptance by the
successor Trustee of such trusts. If no successor Trustee shall have been so appointed by the Authorized Borrower Representative or the Bondholders pursuant to the Indenture within thirty (30) days after delivery of such notices, a temporary Trustee will be permitted to be appointed by the Issuer pursuant to the Indenture. In the event that no successor Trustee shall have been appointed and shall have accepted appointment within thirty (30) days of the giving of written notice by the resigning Trustee as aforesaid, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee. (Section 1106)

Removal of the Trustee. The Trustee will be permitted to be removed at any time upon thirty (30) days’ written notice (a) by the Issuer for any breach of the trusts set forth in the Indenture or any failure or refusal to act as Trustee, (b) by any instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer and signed by a Majority of the Bondholders, or (c) by an instrument in writing delivered to the Trustee and to the Issuer signed by the Authorized Borrower Representative, provided no Event of Default under the Indenture or the Loan Agreement shall have occurred and be continuing. Removal of the Trustee will not be effective until a successor or temporary Trustee shall have been appointed pursuant to the provisions of the Indenture described under the immediately succeeding subheading “Appointment of Successor Trustee; Temporary Trustee” and the Trustee shall have been paid for all Ordinary Expenses and Extraordinary Expenses of the Trustee incurred under the Indenture. The Issuer, or the Borrower on behalf of the Issuer, will be required to give written notice of removal of the Trustee in accordance with the provisions of the Indenture described in this paragraph to each Rating Agency. (Section 1107)

Appointment of Successor Trustee; Temporary Trustee. In case the Trustee shall (a) resign or be removed or (b) be dissolved or shall be in the course of dissolution or liquidation, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court or otherwise become incapable of acting under the Indenture, a successor may be appointed by an instrument executed and signed by the Chairman and attested by the Secretary under seal and executed by the Authorized Borrower Representative; provided, that if a successor Trustee shall not be so appointed within ten (10) days after notice of resignation shall have been mailed or an instrument of removal shall have been delivered as required by the provisions of the Indenture described in the preceding paragraph or within ten (10) days of the Issuer’s knowledge of any of the events specified in (b) hereinabove, then a Majority of the Bondholders, by an instrument or concurrent instruments in writing signed by or on behalf of such Owners, delivered personally or sent by certified or registered mail to the Issuer and the Borrower, may designate a successor Trustee. Until a successor Trustee shall be appointed by the Bondholders in the manner described above, the Issuer, by resolution and upon written notice to the Borrower, will be required to appoint a temporary Trustee to fill such vacancy, and any such temporary Trustee so appointed by the Issuer will immediately and without further act be superseded by the successor Trustee so appointed by the Bondholders. Notice of the appointment of a successor Trustee will be required to be given in the same manner as with respect to the resignation of the Trustee. Every such successor Trustee will be required to be a trust company or bank organized under the laws of the United States of America or any state thereof that is in good standing within or outside the State; be eligible to serve as trustee, bond registrar, and paying agent under applicable law; be duly authorized to exercise trust powers and subject to examination by federal or state authority; have a reported combined capital, surplus, and undivided profits of not less than Seventy-Five Million Dollars ($75,000,000); and be an institution willing, qualified, and able to accept the trusteeship upon the terms and conditions of the Indenture.

In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of the Indenture prior to the date specified in the notice of resignation as the date when such resignation shall take effect, the Owner of any Bond or the resigning Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper, appoint a successor Trustee. (Section 1108)

Indemnification of Trustee. Before taking any action under the Indenture at the direction or request of the Bondholders, the Trustee may require that a reasonably satisfactory indemnity bond be furnished for reimbursement of all expenses it may incur and to protect it against all liabilities, except for liability that is adjudicated to have resulted from the negligence or willful misconduct of the Trustee by reason of any action so taken. (Section 1114)

Financial Statements. Upon the written request of any Owner, the Trustee, at the expense of such Owner, will be required under the terms of the Indenture to deliver to such Owner a copy of any of the financial statements of the Borrower that are described herein under the headings “THE LOAN AGREEMENT - Financial Statements.” (Section 1116)
Amendment of the Indenture (Article XII)

Amendments to Indenture and Supplemental Indentures Not Requiring Consent of the Bondholders. (a) The Issuer and the Trustee will be permitted, without the consent of or notice to any of the Bondholders, to enter into an amendment to the Indenture or an indenture supplemental to the Indenture for any one or more of the following purposes:

(i) to cure any error, ambiguity, or formal defect or omission in, or to correct or supplement any defective provision of, the Indenture,

(ii) to add to the covenants and agreements of, and the limitations and restrictions upon, the Issuer in the Indenture other covenants, agreements, limitations, and/or restrictions to be observed by the Issuer for the protection of the Bondholders or to surrender or limit any right or power herein reserved or conferred upon the Issuer,

(iii) to evidence the appointment of a separate trustee or a co-trustee, or the succession of a new Trustee or the appointment of a new or additional paying agent or bond registrar,

(iv) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, benefits, security, liabilities, duties, or authority that may lawfully be granted to or conferred or imposed upon the Bondholders or the Trustee or either of them,

(v) to subject to the lien and security interest of the Indenture or any of the other Security Documents additional revenues, properties, or collateral,

(vi) to modify, amend, or supplement the Indenture or any indenture supplemental thereto in such manner as to permit the qualification thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any state, and, if they so determine, to add to the Indenture or any indenture supplemental thereto such other terms, conditions, and provisions as may be permitted by the Trust Indenture Act of 1939, as amended, or any similar federal statute,

(vii) to modify, amend, or supplement the Indenture in such manner as to assure the continued exclusion of the interest on any Tax-Exempt Bonds from the gross income of the Owners thereof for federal income tax purposes,

(viii) to modify, amend, or supplement this Indenture in such a manner as shall be necessary in connection with the appointment of a successor Securities Depository under the Indenture,

(ix) to modify, amend, or supplement the Indenture for the purpose of obtaining or retaining a rating on the Bonds or a Series or Subseries of Bonds from a Rating Agency,

(x) to comply with any provisions of the Securities Act, the Exchange Act, or any rules or regulations promulgated thereunder,

(xi) to reflect a change in applicable law provided that the Trustee shall determine that such amendment or supplemental indenture does not materially adversely affect the Bondholders, or

(xii) to make any other change therein that, in the judgment of the Trustee, does not prejudice the Trustee or materially adversely affect the Bondholders.

(b) The Issuer and the Trustee will be required, without the consent of or notice to any of the Bondholders, to enter into an amendment to the Indenture or an indenture supplemental to the Indenture (i) in connection with the issuance of any Additional Bonds in accordance with the Indenture and the inclusion of additional Security in connection therewith, (ii) to the extent necessary with respect to the land and interests in land, buildings, furnishings, machinery, equipment, and all other real and personal property that may form a part of the Project, so as to identify the same more precisely or to substitute or add additional land or interests in land, buildings, furnishings, machinery,
Amendments to Indenture and Supplemental Indentures Requiring Consent of the Bondholders.

(a) Exclusive of amendments and indentures supplemental to the Indenture described above under the subheading “Amendments to Indenture and Supplemental Indentures Not Requiring Consent of the Bondholders,” a Super-Majority of the Bondholders will have the right, from time to time, anything contained in the Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of an amendment to the Indenture or such indenture supplemental thereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in the Indenture, in any amendment to the Indenture, or in any supplemental indenture; provided, however, that nothing contained in the Indenture will permit, or be construed as permitting: (i) an extension of the stated maturity or reduction in the principal amount of, or a reduction in the rate (other than a change in a variable rate as provided in the Indenture) of an extension of the time of payment of interest on, or a reduction of any premium payable on the redemption of, any Bonds, without the consent of the Owners of all of such Bonds, or (ii) the creation of any lien or security interest (other than any Permitted Encumbrances) prior to or on a parity with the lien and security interests of the Indenture without the consent of the Owners of all of the Bonds at the time Outstanding that would be affected by the action to be taken, or (iii) a reduction in the amount, or an extension of the time of any payment, required by the mandatory sinking fund redemption provisions of the Indenture, without the consent of the Owners of all of the Bonds at the time Outstanding that would be affected by the action to be taken, or (iv) a reduction in the aforesaid aggregate principal amount of Bonds the Owners of which are required to consent to any such amendment or supplemental indenture, without the consent of the Owners of all of the Bonds at the time Outstanding, or (v) the modification of the trusts, powers, obligations, remedies, privileges, rights, duties, or immunities of the Trustee, without the written consent of the Trustee, or (vi) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, without the consent of the Owners of all of the Bonds at the time Outstanding, or (vii) the release of the Indenture or requirements for the release of the Indenture, without the consent of the Owners of all of the Bonds at the time Outstanding.

(b) Anything in the Indenture to the contrary notwithstanding, if the Borrower shall not be in default under the Loan Agreement at such time, an amendment to the Indenture or supplemental indenture that affects any rights or obligations of the Borrower or that changes the priority or use of moneys under the Indenture will not become effective unless and until the Borrower shall have consented to the execution and delivery of such amendment or supplemental indenture. (Section 1202)

Notice to Rating Agencies. The Trustee will, prior to execution, give written notice of, and after execution, copies of any amendment to the Indenture or to any indenture supplemental to the Indenture to each Rating Agency. (Section 1203)

Amendments to Other Bond Documents (Article XIII)

Amendments to Other Bond Documents Not Requiring Consent of the Bondholders. The Issuer and the Trustee will be required, without the consent of or notice to the Bondholders, to consent to any amendment, change, or modification of the Bond Documents other than the Indenture for any one or more of the following purposes: (a) as may be required by the provisions of the Loan Agreement or the Indenture, (b) to provide for the issuance of Additional Bonds, (c) to cure any error, ambiguity, or formal defect or omission therein, or to correct or supplement any defective provision thereof, (d) to add to the covenants and agreements of, and the limitations and restrictions upon, the Borrower therein other covenants, agreements, limitations, and/or restrictions to be observed by the Borrower for the protection of the Bondholders or to surrender or limit any right or power herein reserved or conferred upon the Borrower, (e) in connection with the land and interests in land, buildings, machinery, equipment, and other real or personal property described in the Loan Agreement, the Leasehold Mortgage, and/or the Security Agreement so as to identify more precisely the same or to substitute or add additional land or interests in land, buildings, machinery, equipment, or other real or personal property, (f) to reflect a change in applicable law provided that the Trustee shall determine that such amendment, change, or modification does not materially adversely affect the Bondholders, (g) to amend, change, or modify such Bond Documents in such manner as to assure the continued exclusion of the interest on any Tax-Exempt Bonds from the gross income of the Owners thereof for federal income tax purposes, (h) to modify, amend, or change such Bond Documents in such a manner as shall be necessary in connection with the appointment of a successor Securities Depository under the Indenture, (i) to modify, amend, or change such Bond Documents for the purpose of obtaining or retaining a rating on the

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Bonds or a Series or Subseries of Bonds from a Rating Agency, (j) to substitute a new “Borrower” under the Loan Agreement as provided therein, (k) to comply with any provisions of the Securities Act, the Exchange Act, or any rules or regulations promulgated thereunder, or (l) to make any other change therein that, in the judgment of the Trustee, does not prejudice the Trustee or materially adversely affect the Bondholders. (Section 1301)

**Amendments to Other Bond Documents Requiring Consent of the Bondholders.** Except for the amendments, changes, or modifications described under the subheading “Amendments to Other Bond Documents Not Requiring Consent of the Bondholders” above, neither the Issuer nor the Trustee may consent to any other amendment, change, or modification of the Bond Documents or any of them other than the Indenture without giving notice to and obtaining the written approval or consent of a Super-Majority of the Bondholders; provided, however, that nothing in the Indenture will permit or be construed as permitting (a) an extension of the time for payment of any amounts payable under the Loan Agreement or a reduction in the amount of any payment or in the total amount due under the Loan Agreement, without the consent of the Owners of all of the Bonds at the time Outstanding or (b) a reduction in the aforesaid aggregate principal amount of Bonds the Owners of which are required to consent to any such amendment, change, or modification of such other Bond Documents, without the consent of the Owners of all of the Bonds at the time Outstanding. (Section 1302)

**Notice to Rating Agencies.** The Trustee will, prior to execution, give written notice of, and after execution, copies of any amendment, change, or modification of the Bond Documents other than the Indenture to each Rating Agency. (Section 1303)
APPENDIX “F”

BOOK-ENTRY SYSTEM

The information in this section concerning DTC and DTC’s book-entry system has been obtained from sources that the Issuer, the Borrower, and the Underwriter believe to be reliable, but neither the Issuer, the Borrower, nor the Underwriter takes any responsibility for the accuracy thereof.

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Series 2014 Bonds. The Series 2014 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2014 Bond certificate will be issued for each Subseries of the Series 2014 Bonds, each in the aggregate principal amount of such Subseries, and will be deposited with DTC.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization,” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation,” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17 A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (collectively, the “Direct Participants” and each, a “Direct Participant”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation, and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (collectively, the “Indirect Participants” and each, an “Indirect Participant”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

3. Purchases of Series 2014 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2014 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2014 Bond (collectively, the “Beneficial Owner” and each, a “Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2014 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2014 Bonds, except in the event that use of the book-entry system for the Series 2014 Bonds is discontinued.

4. To facilitate subsequent transfers, all Series 2014 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2014 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2014 Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2014 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to
Beneficial Owners of Series 2014 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2014 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond Documents. For example, Beneficial Owners of Series 2014 Bonds may wish to ascertain that the nominee holding the Series 2014 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Series 2014 Bonds within a Subseries are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2014 Bonds unless authorized by a Direct Participant in accordance with DTC’s MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts Series 2014 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Series 2014 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail information from the Issuer or the Trustee, on payable date in accordance with their respective holdings shown on DTC’s records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in “street name,” and will be the responsibility of such Participant and not of DTC, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Series 2014 Bonds at any time by giving reasonable notice to the Issuer or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Series 2014 Bond certificates are required to be printed and delivered.

10. The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Series 2014 Bond certificates will be printed and delivered to DTC.
APPENDIX “G”

PROPOSED FORM OF BOND COUNSEL OPINION
[**Note** - To be provided by Bond Counsel]
BISCAYNE BAY CAMPUS HOUSING
DRAFT
Background Information

• Invitation to Negotiate / Competitive Bid Solicitation was issued October 4, 2013:
  o Servitas LLC was selected from a pool of eight proposals based on proposed project’s fit with FIU’s priorities, consideration paid to FIU, corporate profile, development experience, and facility design.
  o Benefits of the collaboration are to fulfill student’s needs for safe, high-quality on-campus housing facilities within proximity of FIU classrooms, offices and campus amenities.
Background Information

• Residence facility will contain approximately 618 beds in three 9-story towers, most with Biscayne Bay views.

• Rental rates are comparable with FIU housing facilities.

• Facility contains approximately 297,000 square feet.

• Resort-style swimming pool and other amenities on approximately 3.5 acres of land.

• The Project will include approximately 7,500 square feet of space for FIU’s exclusive use at no cost to University and build parking spaces for the residents.
Background Information

1st phase completed in August 2015
Comprised of 410 beds

2nd phase build out completed in Fall 2016
Remaining 208 beds

• Primary Tenants: FIU Students
• Possible Tenants:
  o Students of Other Institutions
  o FIU Faculty and Staff
  o FIU Approved Groups
View From the Northwest Looking Toward Biscayne Bay
Agreement Terms

• Residence Project will be owned by NCCD-Biscayne.
• FIU will grant a long-term sublease to NCCD-Biscayne for a term of 40 years.
• Tax-exempt and Taxable debt not to exceed $82,500,000 and $500,000 respectively will be issued.
• Miami-Dade Industrial Development Authority will act as the conduit issuer.
• FIU will have very limited financial or legal responsibility for the Project.
• FIU will be limited to develop additional housing at BBC unless Project continues to meet its debt service coverage ratio.
• If the Project generates any surplus revenue, FIU will be the recipient.
• The credit of FIU and the State of Florida are not being used to support the Project.