

**THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES**

December 5, 2019

Subject: Approval of Asset Acquisition and Related Matters Pertaining to Torrey Pines Initiative

Proposed Board Action:

Approve (1) The Florida International University Board of Trustees (“University”) entering into an Acquisition Agreement and Plan of Merger (the “Agreement”) with Torrey Pines Institute For Molecular Studies, Inc. (“Torrey Pines”), TPIMS Land Company, LLC (“TPIMS”) and certain defined California Supporting Organizations, pursuant to which (a) the University would acquire and assume certain Torrey Pines and TPIMS assets and contractual obligations (including a leasehold interest in an existing Ground Lease between TPIMS and the City of Port St. Lucie and title to a Building currently owned by TPIMS), and (b) the University would have the option, in its sole discretion, to merge one or more of the California Supporting Organizations into newly created Florida not for profit corporations (which would then become supporting organizations of an FIU direct support organization); (2) the transfer of the Ground Lease to the University, the assumption by the University of all the obligations of the tenant under such Ground Lease, and the transfer of the Building to the University at no cost; (3) the establishment of a Special Purpose Center and the University’s submission of a request to the Board of Governors for approval of the operation of the facility in Port St. Lucie as a Special Purpose Center; and (4) the delegation of authority to the University President, or designee, to execute the Agreement on behalf of the University and all other documents that may be necessary to effectuate the transactions contemplated in the Agreement.

RESOLUTION

WHEREAS, Torrey Pines is a nonprofit public benefit corporation, and a tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code, whose mission is to conduct basic research to advance the understanding of human disease and the improvement of human health; and

WHEREAS, the California Supporting Organizations, which term is defined to be comprise of the Diabetes National Research Group, Alzheimer’s and Aging Research Center, Osteoporosis and Breast Cancer Research Center and Arthritis & Chronic Pain Research Institute, are supporting organizations of their supported organization, Torrey Pines, pursuant to Section 501(c)(3) of the Internal Revenue Code, as reflected in the Tax Exempt Organizations Search of the Internal Revenue Service (“IRS”) and all of the filed returns, IRS Forms 990, of Torrey Pines and the California Supporting Organizations; and

WHEREAS, Torrey Pines is a party to certain Sponsored Research Agreements (as defined in the Agreement) and Assigned Agreements (as defined in the Agreement) that serve to support Torrey Pines’ pursuit and fulfillment of its mission; and

WHEREAS, TPIMS has a leasehold interest in the real property located at 11350 SW Village Parkway, Port St. Lucie, Florida 34987 (the “Premises”) under that certain Ground Lease Agreement, dated November 26, 2013 (the “Ground Lease”) between TPIMS and the City of Port

St. Lucie. Further TPIMS owns a building located on the Premises (the “Building”) and owns certain personal property located in the Building, as set forth in the Agreement. There are capital improvements, estimated to be in excess of \$4,500,000 (the “Capital Improvements”), anticipated to be made to the Building; and

WHEREAS, the University desires to acquire certain assets (including the Sponsored Research Agreements, Assigned Agreements, the Ground Lease, the Building and personal property on the Premises) of Torrey Pines, TPIMS and/or the California Supporting Organizations (the “Torrey Pines Entities”), and the Torrey Pines Entities are willing to transfer such assets, subject to the terms and conditions of the Agreement and in consideration of the University’s assumption of the obligation to make Capital Improvements; and

WHEREAS, the University believes that the acquisition of such assets from the Torrey Pines Entities will further the University’s research and academic mission and provide greater capabilities for the University to perform specialized research and training in the fields currently focused on by the Torrey Pines Entities; and

WHEREAS, the University’s assumption of the Assigned Agreements is believed to be essential to the University’s performance of the Sponsored Research Agreements and will also support the University’s efforts to pursue additional sponsored research and training projects in the fields currently focused on by Torrey Pines; and

WHEREAS, the University seeks to have the Ground Lease assigned to the University; and

WHEREAS, in the University’s sole discretion, the University may also elect to require the California Supporting Organizations to merge with and into newly created Florida not for profit corporations which would then become supporting organizations of an FIU direct support organization, as set forth in the Agreement; and

WHEREAS, the University wishes to establish a Special Purpose Center and to submit a request to the Florida Board of Governors for approval to operate the Building as a Special Purpose Center.

NOW THEREFORE, BE IT RESOLVED, that the University is authorized to enter into the Acquisition Agreement and Plan or Merger, with the University President, or his designee, hereby granted the delegation of authority to execute said Agreement on behalf of the University, as well as all other documents that may be necessary to effectuate the transactions contemplated in the Agreement.

BE IT FURTHER RESOLVED that the University is authorized to assume all of the obligations of the tenant under the Ground Lease and to accept title to the Building, with the University President, or his designee, hereby granted the delegation of authority to execute all documents on behalf of the University that may be necessary to effectuate said assumption and title transfer.

BE IT FURTHER RESOLVED that the University is authorized to establish a Special

Purpose Center and to submit to the Florida Board of Governors the Proposal to Establish a New Type I, II or III Campus, or Special Purpose Center for approval of operating the facility in Port St. Lucie to be acquired by the University, pursuant to the Agreement, as a Special Purpose Center.

This action is in the form of a resolution to take effect immediately upon adoption.

Adopted this ____ day of _____, 2019 by the Board of Trustees of Florida International University.

Claudia Puig
Chair
FIU Board of Trustees

Mark B. Rosenberg
Corporate Secretary
FIU Board of Trustees

Supporting Documentation: *Information behind the Finance and Facilities Committee tab*

Facilitator/Presenter: Leonard Boord, *Finance and Facilities Committee Chair*